Gee, Edw

AN EXERCITATION CONCERNING VSURPED POWERS:

WHEREIN

The Difference betwixt Civill Authority and Vsurpation is ſtated.

That the Obedience due to lawfull Magiſtrates, is not owing, or payable, to USURPED POWERS, is maintained.

The Obligation of OATHS, and other *Sanctions* to the former, notwithſtanding the Antipolitie of the latter is Aſſerted.

And the Arguments urged on the contrary part in divers late Printed Diſcourſes are Anſwered.

Being modeſtly, and inoffenſively managed:

By one ſtudious of Truth and Peace both in *Church* and *State*.

Tyrannus ſine titulo ille eſt qui imperium ad ſe, abſque legitimâ ratione rapit, huic quiſque privatus reſiſtat, & ſi poſſit è medio tollat. Vide ſacram Theolog. per Dudleium Fennerum. cap. 13. de polit. civili. pag. 80.

Si Invaſor imperium arripuerit, neque pactio ulla ſequuta ſit, aut fides illi data, ſed ſola vi retineatur poſſeſſio, à quolibet privato jure poteſt interfici Grotius de jure pacis ac belli. p. 86.

Luke 21. 8.

But when ye ſhall hear of Warres, and commotions (or ſeditions) be not terrified.

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To the Reader.

Christian Reader,

IF *thou kneweſt the Gentleman the Authour of this Tract, thou wouldeſt reade it* for his ſake. *And if thou once reade it through without prejudice, thou wilt reſpect it* for its own ſake.

His eminent fidelity to the Parliament, according to their firſt declared juſt principles, is evidenced, as heretofore by ſeverall appearings and ſufferings in their behalf, ſo now by this Tract. It is weighty *for the* matter, *and* wiſely *handled for the* manner *and* method *of it. A* ſtrain *of* Religion, *and* ſtrength *of* Reaſon *running all along through it. His weapons are* ſpirituall, *the Word of God and right reaſon, not* carnall *policy or power, weapons now moſt in uſe.*

He judgeth of actions (as wiſe men do) by themſelves, *not by their* ſucceſſes: *he accounts not proſperous* vice *a* vertue, *nor prevalent reſiſtance of lawfull Magiſtracy leſſe ſinfull, then if it had not been prevalent, nor the* Mahumetan *party to be any whit the more* bleſſed *or* beloved *of God, becauſe by* force *or* fraud (*through Gods permiſſion*) *they at firſt* raiſed, *and have for ſundry centuries of years* continued *to themſelves a large Empire by the ruine of many millions of Chriſtian Souls: knowing that* the proſperity of fools (*that is of Hypocrites and wicked men*) ſhall at laſt deſtroy them. Prov. 1. 32.

By that wiſedome which is from above, which is firſt pure, then peaceable, *he rightly ſeeks after* Peace, *by clearing up* Truth, *promoting* righteouſneſſe: *proportioning to each their own due, and* placing *them in their own rank and ſtation, Truth, order, righteouſneſſe are foundations and pillars if not* parts *of true Peace; without theſe either there is* no peace (*as if the ſervants of this City being more and ſtronger, then their Maſters ſhould ſlay or baniſh them, and quietly divide amongſt themſelves their Lands and Goods, were this a Peace?*) *or if it may be called a* peace, *it is but a* baſe, bruti-

tish, satanicall peace, a plague *and* pest *of the place where it is. By such a kinde of* peace, *as well as by* power *and policy, did* Antiochus prosper, practise, and destroy the mighty and holy people, *Dan.* 8.24,25.

This Authours zeal for the obligation *of solemn* Oaths, Vows, *and* Covenants *may well be born with; if it be a fault, there is but little* (*too little*) *of it in* England. *But the good man* though he sweareth to his own hurt, changeth not. *Psa.* 15.4.

I will say no more, but Tolle lege, take up and reade, understand *what thou readest*, remember *and* practise *what thou understandest* to be the will and minde of God, *and* pray *for such* (*whether of the Gentry, Ministery or others*) *as* long, *and* labour *for thy* information *and* reformation *if thou* wandrest; *and for thy* confirmation *and* consolation *if thou* walkest *aright. The God of truth and peace be with thee.* Amen.

CHAP. I.

Of Vsurpition, what it is; a Case propounded, wherein it is not hard to determine whether Vsurpation be chargeable, or not.

Usurpation is an intrusion into the Seat of Authority, a presuming to possesse, and manage the place & power thereof without a lawfull calling, right, or title thereunto. A lawfull call or title to that rule, and Government which is supreme (of which I have to speak) is derived, or comes from God, *There is no power but of God*, (saith the Apostle) *the power that be are ordained of God*: Rom. 13. 1. It were a sense too large, and not to be defended to take these words absolutely, and inlimitedly of all power, in regard either of title, or measure, and use. An unjust power in regard of Measure, or the stretching of Power beyond its due bounds, or the abuse of it is generally denyed to be of God by way of warrant; and an unjust power in regard of title, or an Authority set up, and admitted against, or without right, God himself denyes to be of him. *They have set up kings, but not by me; they have made Princes, and I knew it not*: saith he, *Hosea* 8.4. Which speech is by the current of [a] Expositors applyed to *Jeroboam*, and his successors, coming in to be kings of Israel in that manner as they did; For although *Jeroboam* had a prediction (yea, suppose it a grant) that he should be King of ten Tribes, 1 *King*. 11.29. yet the people, at *Solomons* death, had no command, or direction from God to cast off *Rehoboams* government, and make him their King; it was therefore sedition, and rebellion in them; and both a manifest breach of the fifth Commandment; and of the positive Law of God, *Deut*. 17.14,15. and *Jeroboam* was faulty in that, though he had Gods preconcession of a Kingdom over ten Tribes; yet having had no order from him about the time, manner, or the particular ten which they should be; he did not seek and tarry for further direction, and calling from God; as *David* did in the like case [b]. And although the Lord, when it was done, testi-

[a] *Zanchius, Junius, Geneva interpret. Pareus, Diodate*: Annotations of Divines in locum.

Vide Paræum in Hos. 8. 4.

[b] 2 Sam. 2.1.

c 1 King. 12. 24 fied that the thing was from him c; yet we must understand it to have been so by his permissive counsell, and generall concourse, or providence onely, as all actions as they are actions, and all events that are evils of punishments; and as they are such, are, though the actors among men that bring them be never so sinfull in them; but not by his approbation, appointment, or constitution; the event was from God; but not the sinfull means by which it was accomplished; he ordered the evill carriage of men to that effect, but he gave them no order for that evill carriage: so that though, in a sense, it was of him, yet in regard of authorizing, it was without, and against him, and, in the Apostles sense, none of Gods ordinance. But of this we shall have occasion to speak again hereafter.

God giveth a calling, or invests with a right to Soveraignty, either immediately, by making and declaring the choice, and designing the person himself; or mediately, by committing it to the people to elect, and constitute both their form of Government, and the persons that are to sway it over them, which he hath done to all Nations; yet with a reservation to himself of power to interpose with his own immediate designation when he pleaseth: and when he doth not so, the vote of the people is the voice of God, (ordinarily) and they passing their consent when a Magistrate is to be set over them, that power, b constituted, is of God, as his ordinance. And this may be the reason why that, which in one place is called the ordinance of God, is, in another called the ordinance of man, or an humane ceature: 1 *Pet.* 2. 13. By the former way the Judges and Kings of Israel had, or ought to have had their admission to rule, d and that was extraordinary, and peculiar to that people; the latter is the onely ordinary, lawfull, and warrantable way of creating a right, and title to the helme of Magistracy in other Nations. And as in the former the call of God was sometimes personall, or of one single person; as was that of *Moses, Joshua, Samuel, Saul*, and others: and again, sometimes lineall, or of a whole race: as was that of *David* and his seed e: So it is in the latter, f the peoples constitution of their Governors may either be indiviuall, or intransient; as in those kingdoms, or States which are called (in a strict acception) Elective; or it may be continuated and successive; as in those Kingdoms, or Principalities which are

d Deut. 17. 14.
e 2 Sam. 7. 12.
f *Principatum multi appetunt, nec boni ipsi nec bono fine, quos repressit tamen mos sive lex Gentium repagulo duplici, Electionis & successionis, &c.* Justi Lipsi pol. l. 2. c. 4.

called

called hereditary, and poſſeſſed by deſcent: both wayes Princes are by the peoples Election, and conſent; and the latter is preferred, by many wiſe Statiſt, before the former g.

I ſhall not inſiſt on the diſtinctions; that might be obſerved touching the manner of the peoples paſſing their conſent; nor determine which of them is ſufficient, and which not, to make this right to title, whether it muſt be antecedent to poſſeſſion, or may be conſequent, expreſſe, or tacite; collective, or repreſentative, abſolute, or conditionated: free, or enforced: revocable, or irrevocable. The conſideration of theſe is not materiall to the reſolution of what is in queſtion; it ſufficeth that it be yeelded, that the peoples conſent is (beſides that which is by commiſſion immediately ſent and ſigned from heaven) the onely derivation of a lawfull call, or claim to Government h. When our Saviour Chriſt (who being ſuch an extraordinary perſon, might have warrant to do what would have been preſumption in any other) was appealed to in a cauſe that appertained to the civill Magiſtrates diciſion; he refuſed to deal in it, with theſe words, *Who made me a Judge, or a divider over you?* according to which words of him, who is *the truth*, he that may rule, muſt be placed in that office by ſome body, and may not undertake it of himſelfe: no man may take this honour to himſelfe, or be his own advancer to the Throne; but he muſt be inſtalled by another: and what other creature, beſides the Nation it ſelf can challenge a power to appoint over it its Rulers is not to me imaginable. Angels are not of his Oeconomie, do not intermeddle in this buſineſſe; and for other people, or forrein States they are but in an equalitie, and have no partnerſhip in this matter; they have no more to do to impoſe Governors over their neighbours, then they have reciprocally over them; and to whichſoever may attempt it towards the other, by the analogy of our Saviours words, it may be ſaid, *Who made thee a Judge, or Rule-maker ever me?* Luk. 12. 13, 14.

A calling from the people, who are to be ſubject being ſo neceſſary, and eſſentiall to a humanely conſtituted Magiſtracie; it is eaſie to diſcern what is Uſurpation, *viz:* that which is oppoſite to it, or privative thereof, which is a ſnatching hold of the Stepter, and wreſting it out of the hands of thoſe who are to diſpoſe of it, or have it commmitted to them: it is ordinarily

g *Minore diſcrimine ſumi principem quam quæri.* Tacit. Hiſt l 2.

h *Quartum vero legalis Monarchiæ genus eſt quæ jam temporibus Heroicis voluntate civium, & patriis legibus atq; inſtitutis approbata eſt.* Ariſt. polit. li 3. num 89. Luk. 12. 13, 14.

termed, a tyrannie in regard of title, or without title: The distinction betwixt lawfull Magistrates and Tyrants is thus given by *Aristotle*: h *Kings do reign, not onely according to the Law, but over them that consent to them; Tyrants rule over men against their wils. If any govern against the minde of the governed, it ceaseth to be a Kingdom, and becometh a Tyranny which ruleth by force.* All lawfull power then is founded upon the wils of those over whom it is set; Contrariwise Usurpation is built upon the will and power of them that hold the Government; it is a self-created, or self authorised Power, such was that of i *Cinna*, and *Carbo*, who made themselves Consuls, without any Court-election, in the time of the Roman sociall war betwixt *Sylla* and *Marius*; and that of k *Julius Cæsar*, who made himself Consul, together with *Publius Servilius*; Such was that of the Caldeans over the Jews, *Hab.* 1. 7. *Their judgement and their dignity shall proceed of themselves*, saith the Prophet, that is, as *Deodate* expounds it, they received no Law, nor assistance from any; their rights consist in their will, and the execution in their power.

h *Reges enim non solum secundum legem, sed etiam volentibus, Tyranni autem invitis imperant.* Aristot polit. l. 3 num. 87. *Etenim si nolentibus imperatur, regnum protinus esse desinit. Tyrannus efficitur quae vi dominatur. Verum regnum est imperium voluntate civium delatum: at si quis vel fraude, vel violentia dominatur manifesta Tyrannis est.* idem. li. 5. num 112.

i *Deinde Cinna, & Carbo sese, sine comitiis consules creabant in biennio.* Chro. Carion. lib 2.

k *Ex Dictatore Consulem se cum P. Servilio ipse fecit.* Cluver. Hist li. 7. pa. 235.

Usurpation being defined, we may proceed to distinguish of it according to severall heights, or degrees it is capable of; as

1. It is either where the Throne is vacant, and undisposed of (which may happen sundry wayes, as when a Commonwealth is new erected, or the possessors of the Government resigne, or are extinct, and none left to lay claim to it) or, where it is full, and possessed *de jure*, and the Rulers are onely violently extruded, and kept out.

2. Usurpation is either meerly in point of Title, and administration of a received and settled Government; or by way of innovating in the Government it selfe; over-turning the constitution of it, and forming it anew.

3. It may come to be acted either from those without, *viz.* Forreiners, and strangers to the State; or by Natives, and naturall Subjects of the Kingdome.

4. It is done by these, either against the single tye and duty of obedience and Allegiance owed to the present lawfull Authority; or against Allegiance bound with Oaths and sacred Covenants. All the sorts of each of these distinctions are direct, and formall usurpations, but the latter of each far surpasseth the other respectively, and a conspiration of them all makes an

Usurpa-

Uſurpation of meridian altitude; when a party owing obedience and ſubjection to a long continued, and undoubted lawfull power, and ſolemnly ſworn to ſubmit to, and ſupport that Government, ſhall riſe up, and preſume to thruſt out the poſſeſſors, and inveſt it ſelf, yea, and not onely ſeize on the Power; but of its own minde, and will, or, by its force alone, aboliſh the ſettled, and ſet up a new mould of government; this is Uſurpation to the culmen or height of it.

Having thus found out what Uſurpation, and what the Zenith of it is; we may put a caſe wherein it will be eaſie to give a Judgement cleerly. Suppoſe a Nation in *America*, whoſe fundamental government is, and hath been anciently and confeſſedly conſtituted, and placed in a King, an Houſe of Peers, and an Houſe of Commons ſitting in a collaterall, or coordinate rank, in regard of ſupremacy of power; the King being the ſupreme in order (unto whom, is ſuch an aſſociation, Oaths of Allegiance and ſupremacy are generally ſworn) next to him the Peers as the Upper, and the Commons as the Lower Houſe of Parliament. Suppoſe alſo, the King, according to his place, ſummoning them, and they conformably aſſembling together in Parliament, and he and they perſonally concurring to act in the higheſt affairs of government; in the proceſſe whereof differences ariſe betwixt the King, and the ſaid two Houſes; which grow to that height, as that he in perſon departs from them, a war breaks out betwixt them; the Kingdom is divided by parties hip with them, on the one ſide or the other; the two Houſes continue acting joyntly, not onely in managing their military defence, but in the other publick, both religious and civill affairs of the Kingdom; they petition, remonſtrate, and declare for a neceſſi ie of an aſſociation, and conjunction of the King and the two Houſes as the fundamentall conſtitution, and government of the Kingdom; they enter into, and preſcribe to the people Proteſtations, Vows, Oaths, and Covenants, for the upholding of the Authority and Power of both ſo conſtituted; they profeſſedly fight for that aſſociated Power, they proclaim them Enemies and Traitors, they proſecute them with fire and ſword, ſequeſtration of eſtates, and other puniſhments, that go about to divide them aſunder, or oppoſe the aforeſaid Authority; and all this they do; and avow as the indiſpenſably

neceſſary

necessary discharge of their trust. Suppose after al this, the Army raised and imployed by the said two Houses in the aforesaid war, confederating in their Leaders (as by the immediate sequell manifestly appears) with a small party in the Lower House; Remonstrates to that House (without any addresse to the other) many high and strange things they would have done by them, and amongst the rest, that the King be proceeded against, as for treason, and other capitall crimes; in like manner his two eldest Sons, if they render not themselves within a day to be set them: that it be declared that the peoples Representatives in the House of Commons shall have the supreme Power, and all other shall be subjects to them; in which demands, that House not being so obsequious to them as they expect, but standing upon the colleagueship of that Government, which they with their associates, the King, and the House of Peers are intrusted with; the Army, forthwith, marched up to the doores, and by force of arms seized on, and shuts up in hold one sort of them; and by a strong guard set at their doores shuts out another, suffering onely a small number of them, and such as please them to sit in the House. Suppose lastly, this litle number, left in the House, shall approve of, and second these proceedings of this Army; and by their act, or Vote confirm the seclusion of that greater number of the Members of that House; and taking up them to Act in the name of that House, shall Enact or declare themselves to be the onely Supreame Authority in the Nation, and by that pretended solitarinesse, and supremacy of power shall take away, and abolish the other House of Parliament, destroy the life of the King, deny, and disanull the Title of his Heirs, and Successors, to the Crown and Kingdome; abolish the office of a King, and adorn and govern solitarily over the people, as their onely supreame Power, and require their obedience, and subjection as to such. The *quere*, in this case thus propounded is, whether this said party, at thus acting, and as to this latitude of Authority, be usurpers, yea, or no? whether this their removing others from the Seat of Supreame Power, and assuming it peculiarly to themselves, be, or be not Usurpation (as Usurpation hath been before prescribed) and that to the very apex, or highest pinacle of it; yea, whether they be, or be not guilty of a double Usurpation?

First,

First, in usurping the name and Authority of that House. It may haply be said for this. 1. That possibly they may make a *quorum*, or as many in number as are required to act. *R:* But are they not supposed to be under actuall and present force, which hath been, without contradiction by any, adjudged a ground of nullity to Parliamentary proceedings. For though all are not required to be present, yet the House must be free for all to come to, that their acts may be free and authorative.

2ly, That perhaps they may be most willing, voluntary, and free in their acts, and the force that hath taken away others may be no force but a security to them, being of the same principles, apprehensions, and designes with them. *R:* But though they as men may be free, yet taking upon them the name of the House, are they free as an House? the House includeth virtually every Member of it, many whereof being violently excluded by those that guard the meeting place, how free soever those persons are that sit, how can the House be said to be free? nay, doth not their voluntarinesse and free complyance make the Usurpation compleater? Could they be said to be enforc'd to declare, and act such things, we might by a favourable interpretation onely judge their Acts to be null; but when their proceedings flow from their own wils, and they so concur to the exclusion of others more then themselves from the exercise of the power they with them are intrusted with, and assume to themselves a power, never confirmed on them by the people, but meerly of their own creation, how can this be lesse then Usurpation to the life?

2ly, In usurping (in the name of that House) the sole supremacy of Power in the Nation. It will be pleaded: perhaps, that the House of Commons, in the supposed case, is the onely Representative of the people, to whom alone the Nation hath committed the Supreme Power. *R:* 1. That House is not a Representative of the whole Nation, but onely of the Commons, which though the bulk, and far more numerous part; yet cannot stand for the whole in chooſing a Representative, but onely for themselves. 2. If it could be made good, that to that House, the whole Nation, in the originall constitution of Government, had committed the sole Power; the *quere* would easily be call in the negative: but how will that be proved? The

case,

caſe, as it is put, preſuppoſeth Antiquitie, and by paſt practiſe: and the actings of the preſent Houſe of Commons, untill brought under force, to proclaim the quite contrary. 3. If nothing, *ab origine*, can be ſhewed for that, did the King that ſummoned this Parliament, or the People that choſe this Houſe of Commons, ſuppoſed in the Caſe, paſſe over any ſuch prerogative to them *de novo*; If either of them did, let us hear how. 4. It is too groſſe an abſurdity to be charged upon the ſuppoſed preſent, and all former Repreſentatives; that being intruſted by the people with the ſole Supremacy, they have of themſelves aſſociated to them the King, and the Houſe of Peers, it being beyond the power of the conſtituted, and onely in the Conſtitutors to make ſuch an alteration in the fundamentall Conſtitution; as Repreſentatives cannot make Repreſentatives or Proxies, ſo can they not take in Aſſociates, or advance others, not impowered by them that impowered them into a Colleagueſhip with them. I leave it therefore to every Reader to determine the Caſe, and paſſe judgement. Whether the ſole ſupreme Power, in the preſuppoſed party, be derived to them legitimately, or be not a Self-created-power, and ſo a meer Uſurpation, and that of the fulleſt dimenſion; being againſt a lawfully ſettled Government, in prejudice both of the juſt Magiſtrates and the people: and in contradiction to both the ſingle tye of Subjects Allegiance to Soveraignty, and the ſacred ſanction of Vows, Oaths, and Religious Covenants.

CHAP. II.

Of yeelding obedience to a Power uſurped as aboveſaid. That it is not lawfull to give up ones ſelf to the Allegiance of ſuch a Power.

CONcerning obedience to an uſurped Authority, I meet with two opinions, which I ſhall ſeverally examine. 1. Is of thoſe who hold obedience as due, and neceſſary; and that in as full a manner to ſuch, as it is to the lawfulleſt Power. This is held, and argued for in a Tract, entituled, *The lawfulneſſe of obeying the preſent Government:* as alſo in *A Diſcourſe, wherein is examined, what is particularly lawfull, &c. By Ant: Aſhcam Gent:* See in his 2d. Part. cap: 9. Although indeed they both propound their opinion

opinion in the Title of their Diſcourſe for obedience as lawfull; yet, in the proſecution, they plead for it in that fulneſſe of latitude as due, and neceſſarie. This their Tenent they ſtrive to maintain in relation to the preſent State of *England*. I ſhall deal with it in reference to the caſe above propoſed, and in *theſi*: 2. Is of thoſe who, reſerving their obedience as due and devoted to the lawfull Power, ſuppoſed to be ſtill exiſtent; do yet conceive they may ſubmit and act under a uſurped Power for the time, and during the intervall of its prevalency.

I begin with the former; wherein it is aſſerted by one of the foreſaid Authors [a], (and the other comes not ſhort of him in the ſenſe and current of his Diſcourſe) *That upon the iſſue of a warre, and the expulſion of a juſt party, a man may lawfully give up himſelf to the finall Allegiance of the unjuſt party.* Againſt this Poſition muſt my Judgment ſtand, which dictates to me that I owe no obedience to an Uſurper; and to yeeld up my ſelf in obedience or Allegiance unto Uſurpers, who have no other title but their uſurpation, is unjuſtifiable, and unlawfull, and that upon theſe grounds.

a A Diſcourſe wherein is examined, &c. by *Ant: Aſhcam* Gent: Part. 2. Chap. 9. pa. 84

1. I cannot (if I would) yeeld up my ſelf in obedience to him that hath no authority over me; take him as a Uſurper, and my Allegiance is incompetible to him; obedience and authority; Magiſtrate, and Subject, are tearms of relation, and do *Se mutuo ponere & tollere:* they are inſeparable from one another; if there be no Magiſtracy in him, there can be no obedience properly, and formally in me to him. I may (either warrantably or unwarrantably) do an act poſſibly which he commandeth, but that cannot be truly and properly ſaid to be an act of obedience to him: his authority is null, of no reality [b]. *He is no Magiſtrate, but a private perſon*; my fellow Subject, (if one of the Nation) or a forreiner to me; his commanding over me and others is, as if a private Souldier ſhould take upon him to give orders to his Company, or an inferior Officer to an Army; or a ſervant ſhould offer to rule over his fellow-ſervants.

b *Tyrannus abſq; titulo, qui eſt invaſor, quilibet privatus poteſt, debet è medio tollere: neque enim ille Rex eſt, ſed privata perſona, &c.* Alſted. Theol. Caſ. ca. 17 Regul. 8.

In ſaying he is a uſurper, you ſay enough for the nullifying of his Authority, and my obedience; whatever ſtrength he may have to compell, he hath no Authority to command me: *He is a Magiſtrate that hath the Subjects committed to his charge and care,* ſay the Leyden Divines [c] in their Synopſis, and principality,

c *Magiſtratus ſubditos ſibi, ac curæ ſuæ commiſſos tanquã Dei miniſter gubernat.* Synopſ. pur. Theol. diſput. 50. theſ. 3.

Lypsius d defines to be, *A government delivered by Custome, or Law, and constitution to him that sustains it; and undertaken, and managed by him for the good of the Subjects.* Another defines a Magistrate to be e *A publick person, elected by succession, lot, or suffrage; which hath the right and power of Consultation, Judgement, and Command.*

d *Principatus est imperium moribus aut legibus delatum susceptum, gestumq; parentium bono.* Iust. Lyps. polit. li. 2. c. 3.

e *Magistratus est publica persona successione, sorte, aut suffragio electa,* &c. Io: Casi: Sphæra, Cinol. 4. cap. 15.

2. I may not (if I could) yeeld up my self as a Subject to the Usurper; in so doing, I should take away the right of the lawfull Magistrate which he hath over me, and injure him in the allegiance which I stand tyed in to him, and he still retaineth the claim of at my hands. The Magistrate is (in the case in hand) granted to be in being; he is but deprived of possession and enjoyment, not of property or title; he is yet standing in the relation of a Magistrate to me; and is onely outed of his station perforce. The obedience of a Subject is not so arbitrary, or loose a thing, as that I may place and remove it at pleasure, or as affairs go; but it is a debt which I must render to him unto whom it is due. Neither is Soveraignty so common, ambulatory, or prostitute a matter, as that its title ceaseth unto him that is violently extruded, or dispossessed of it, and becometh any ones that by force captivates it to himself; the expulsed Magistrate still standing upon his claim and right, and the power in possession having no title but his injurious & forcible entrance; the Subject is not disobliged from him that is expelled, nor at his choice to transfer his obedience to another, neither can the violent intruder challenge it. But in respect of the consequence of that which I here assert as unto resolution in this case, and for that I find the Gentleman, in the afore-named Discourse f positively delivering the direct contrary to it; and that which is (as I think) very strange doctrine both in Christianity and politiques, *viz: That we are bound to own Princes so long as it pleaseth God to give them power to command us; and when we see others possest of their Powers, we may then say, that the King of kings hath changed our Vice-royes.* And further, that *the point of right is a thing alwayes doubtfull; — possession generally is the strongest title that Princes have. And if possession was really the truest evidence to us of their* (to wit, the expelled Princes) *rights, then it is equitable to follow it still, though it be perhaps in a person of more injustice then they were.* And the other book, I before cited, (*viz: The lawfulnesse of obeying the present Government*) maintains the same thing (both

Rom. 13. 7.

f Discourse of *Ant: Ascham* part. 2 ca. 9. page 88.

Part. 1. Chap. 5 page 22, 23.

Part. 2 cap. 9. page 90.

whose

whose arguments, for what they say, I shall take notice of, when I have layed down mine own sense and Reasons) I shall therefore here labour to make good these two things: 1. That meer forcible extrusion deprives not any lawfull Magistrate of his right and title to supreame Power. 2. That violent possession gives no right to the Seat of Authority; and consequently the Subjects allegiance is not turned about by the changes of powerfull possession, and dispossession.

1. Forcible extrusion or dispossession divests not of Dominion, that the state of the Subjects allegiance should be altred by it.

First, If the vindication or recovery of a Princes, or peoples right of Dominion, out of which he, or they are ejected, or excluded be a justifiable ground for his, their, and others in their behalf leavying and waging war, and prosecuting with the sword those that withstand the said recovery; then the right of him that is expulsed by force is not cancelled, or disanulled. The reason of this consequence is of it self evident, for nothing can be the ground of a war but a just and reall title, either to be defended, or recovered; but I assume, the recovery or redemption of a Princes or peoples right to a Kingdom with-held, or wrested from him or them, is a just ground of drawing the Sword, and commencing a war. This is proved (if it needeth any proof) by the war of the Judges & people of Israel, against the Kings and Nations that at severall times invaded and ruled over them; against whom they rose up, and rescued themselves, and the Dominion of their Land from them: the story of which acts, we have in the *book of Judges*, and by the warres of *Samuel* and *Saul* against the *Philistines*, recorded in the 1 *Book of Samuel*: as also by *Davids* warlike undertaking against, and suppression of *Absolom*, who had carried away all *Israel* after him, into a Rebellion against *David*, & expulsed him out of the Land, 2 *Sam.* 15. &c. and 19. 9. In like manner by *Jehoiada's*, and the peoples rising in Arms against *Athalia*, the usurping Queen, in the right of *Joash*; and their suppressing, and destroying her, and enthroning him by force of Arms. 2 *King.* 11. And by the wars of the *Maccabees against Antiochus, Epiphanes, and his successors* g And the many undoubtedly lawfull wars of other Princes and States in such causes as these, which to insist on is superfluous in so clear a matter.

1 Macca. chap. 1. &c.

g Joseph. de Bell. Iudaic. lib. 1. cap. 1. Cron. Carion. lib. 2.

Secondly, If right and title to Soveraignty be not built upon poſſeſſion, but upon the Law of the Land, or other conſent of the people, then it is not loſt by diſpoſſeſſion; this conſequence is founded upon that which a learned Statiſt [h] ſaith, *Is a received maxime almoſt unſhaken, and infallible, Nihil magis naturæ conſentaneum eſt, quam ut iiſdem modis res diſſolvantur quibus conſtituantur: There is nothing more agreeable to nature, then that things ſhould be diſolved by the ſame means they are conſtituted.* From which he infers, very pertinently to our caſe in hand, *That if the part of the people, or Eſtate be ſomewhat in the election, you cannot make them nulloes or ciphers in the prorivation or tranſlation.* But the right and title of Soveraignty is not built upon poſſeſſion, (which the proof of the latter Poſition will clear) but upon the peoples conſent, which hath gone for ſo currant an axiome, eſpecially of late, that it will certainly paſſe without contradiction.

[h] Conſiderations touching a warre with Spaine, written by *Francis* Lo: *Verulam*, &c. pa. 3d.

Thirdly, If a private property be not loſt by loſſe of poſſeſſion, neither (or rather much leſſe) can ſuch a publick property be loſt by that means; there can be no ſuch difference made betwixt them as to enervate this conſequence, and however, who ſees not the incongruitie of this, that that which is the conſervatory and protection of a private mans property, ſhould be of a ſo much more ſlipperie tenure then it; but a private property is not loſt by diſpoſſeſſion; if it were, for what uſe ſerveth the Law, or Magiſtracy? one main end of which hath been, to vindicate the Subjects right from uſurpation, or what call you property? But he that either hath any, or granteth ſuch a thing to be as property, will let this aſſumption paſſe.

Fourthly, If violent extruſion take away a Soveraigns right, then rebellion where it proſpers and prevails is no treaſon; for there can be no treaſon, or other crime imputed as againſt the Crown, dignity, or authority of them, whoſe right therein is extinct and null; ſo that they are onely (according to this opinion) traitors or rebels, that riſe up in Arms, and rebellion againſt the lawful Power, and do not ſucceed and ſpeed according to their deſires. By this account, treaſon and rebellion ſhall conſiſt, not in the maliciouſneſſe of the intent or attempt; but in the misfortune of ſucceſſe, or impotency of the proſecution of it.

Fifthly, If force diſſolve Magiſtracy; then that prohibition of

reſiſtance

resistance under pain of damnation: *Rom.* 13. 2. is in vain, in that it concerns onely them that cannot resist effectually, and is no more then if he had said, resist not ye that want power to do it, lest if ye do, ye incur damnation: for they that have power, and please to use it to the deposing of the Magistrate, being that in so doing they put an end to his right, how can guilt remain on them?

2. Violent intrusion into, and possession of the Seat of Authority gives no right to it; and consequently neither draws allegiance after it, nor evacuates it in relation to another.

First, an unjust action cannot produce, or create a right. [i] Morall good, and evill are at such distance, that the one cannot be the cause, the other the effect; but violent intrusion into Authority is an unjust action: *Luk.* 12. 14. *Man who made me a Judge*, &c. and that whether it be by one that should be a Subject to that power, *Rom.* 13. 2. *Whosoever therefore resisteth*, &c. ver. 5. *Wherefore ye must needs be subject*, &c. *Tit.* 3. 1. 1 *Pet.* 2. 13. or by a Forreiner, *Judg.* 11. 12. 27. 2 *Chron.* 20. 10.

2ly, If violent occupation made a right; [k] then it were lawfull for any, that could make a sufficient strength for it, to rise up in Arms, invade, and seise on any Kingdome or Territory, he can prevail over; yea to kill and destroy men and Countreys for Empire and Dominion, as [l] *Cæsar* inclined to hold; for that which is of it selfe the way and means to place a man in a lawfull estate, or calling, and makes him a lawfull possessor of it, must needs be lawfull: but it cannot be held lawfull for any, that can finde power, and advantage, to invade Crowns and Countreys, as is evident by the proof of the Assumption of the preceding Argument.

3ly, If possession by power give a title; then its unlawfull for an oppressed Prince, or people to raise warre, or use any other means to expell an Invader, or remove such as have come in, and hold meerly by force; for its unlawfull to resist, or fight against a just Magistrate, *Rom.* 13. 1, 2. But it is lawfull for an oppressed Prince or people, by Arms, or otherwise to free themselves from a forcible Usurper, as manifestly appeareth by those presidents given in the proof of the assumption of the first argument for the former Proposition, to wit, the wars of Israel in

i *Non est æquũ ut ex actu injusto, jus sibi quis acquirat.* D Sand de juramenti oblig. præl. & 6. Sect. 4.

k *O pubes demitura Deos, quodcunque videris pugnando dabitur: præstat victoria mundum.* Cl. Claudiani Gigantomachia.

l *Cicero scribens de officiis tertio libro semper Cæsarem in ore habuisse Euripidis versus, quos sic ipse convertit: nam si violandum est jus regnandi gratia violandũ est aliis rebus pietatem colas.* Sueton in Jul. Cæs.

in the book of Judges, and 1. of *Samuel*, of *David*, *Jehoiadah*, and the Maccabees, and by the known Law and practise of all Nations, and consent of all Divines, and Christians, who with one vote allow defensive and recuperative Arms, excepting the Anabaptists, and some ancient Hereticks of their stamp.

4ly, All force ought to presuppose a right in that about which it is conversant; whether for the defence or recovery of it *wars* (saith *Francis* Lord *Verulam*, [m] &c.) (I speak not of ambitious predatorie wars) *are suits of appeal to the tribunal of Gods justice, when there are no superiors on earth to determine the cause, and they are as civill Pleas, either Plaints or Defences:* Force therefore cannot create a right, seeing it is to follow it, and both give it the precedencie in time, and own it as its ground-work; Adde to this, that the Sword is committed to the Magistrate (*and to him alone*, saith *Peter Martyr* [n]) as its subject or owner; so that the Magistrate is before it, not made by it. The Sword makes not the Magistrate, (that is, *it is not its principle of Generation,*) but the Magistrate a warrants authorizeth the sword; the sword may make for his conservation, but not for his Creation.

m Considerations touching a warre with Spaine, pa. 2d.

n *Gladius (ut ad Romanos habetur) potestatibus duntaxat est datus.* Loc. commun. class. 4 ca. 20. loc. 12.

5ly, If force give a title (*renitente populo*) then that late so much decantated Aphorisme, All Power (to wit, Authority) is from the People, must be called in again; yea all Donations, Elections, Compacts and Covenants betwixt Prince and people are void, and null businesses. A third person that can get hold on Power, and lists to usurp, may dissolve and evacuate them all; yea the Prince that comes in by them, when once he hath possession of the Power, holds by his power, and not by them, and can no longer, nor further look to retain his right to Authority then he can enforce it; and what Turkish and tyrannicall practises doth this doctrine put him upon of necessitie, if he will sit fast.

Mr. *Ashcam* part 1. ca. 3. sect. 4.

6ly, *No man naturally is more a Magistrate then another:* Magistracy being in truth not a naturall, but a civill relation; as is that of husband and wife, master and servant; it must therefore be founded on some mutuall and reciprocall act, or agreement of both parties, to wit, Rulers and Subjects; and cannot result out of the action of one alone of them, nor can either partie be meerly passive, in contracting such a relation. A mutuall civill obligation cannot arise but of the joynt or interchange-

able

able concurrence of both.

7ly, Power and right, as also possession and right, are separable, as all experience demonstrates; so it was in the controversie betwixt *David* and *Absolom*, and so it frequently happens to be: successe and victory doth not seldome follow the wrong party; and he would be thought irrationall amongst all men, whersoever in the world, but where reason it self is brought under tyrannie, that should say, successe is the onely Arbitrator of Controversies of right, and is ever infallible.

8ly, Strength and Authority also are two distinct and separable things, and rarely meet in the same subject, but where either bruitishnesse, or all miseries prevail; man hath dominion given him over the beasts, many whereof are (and were by creation) stronger then he; What is a Generals natural strength to that of the Army over which he commands? what is a Kings, or a Counsels personall strength to that of the body of the people over which it sways? yea what is the head in the naturall body to all the members under its government, in point of force? We see a small board or two, put in the place of a rudder, guides the whole vessell. Amongst some beasts indeed the strongest rules; but amongst men it is not regularly so: yea, among some unreasonable Animals, not force, but fitnesse designed by Election obtains the rule. Bees, they say, choose their king, of whom o *Plinie* observes, that *either he hath no sting, or Nature hath denyed him the use of it; being onely armed with majestie.* And *Aristotle* saith, p *It is by a kinde of naturall equity and merit, that he that is of a sage and discreet understanding should rule; on the other hand he should obey, and be in subjection, that hath more strength of body, and Arms to perform service.*

9ly, Where there is no title but power, there can be no rule for Government but power and will: onely that which gives right to Magistracy must set bounds to it; how can they be tyed to Laws, in exercising Government, that are tyed to none in coming by it? If the basis or bottome of Government be power, that must also be the measure of it; q so that a Magistrate, so holding, is confined to no justice, or Law; restrained from no violence, or sacriledge that his Power may extend to. That power, against whose forcible intrusion the Laws, and Constitutions made by Prince and people, for the settling of the Crown

o Plin. Nat. Hist. lib. 11. Chap. 17.

p Arist. politic. lib. 1. num. 8. *Naturali enim jure meritoq; fit ut qui provida mente sagaciq; fuerit, is imperet, ac dominatur, qui autem corporis viribus & lacertis hæc ipsa obire possit, is contra subjiciatur, & serviat.*

q *Nec quisquã imperium flagitio quæsitum bonis artibus exercuit.* Tacit Hist. 1.

Crown or Soveraigne rule, are of no validity, can reasonably have no obligation upon it from any other Laws made by the same parties; [r]the Authority that makes the Law is the Soul that quickens it; the Law springs from Authority, as the act doth from its habit or principle; so that grant, or prostitute Authority to the Sword as its right, and you subvert all settled Laws, whether fundamentall or superstructory; and this all experience, as well as reason, dictates; for where, or in what Age did meer force assume the Empire without a lawlesse arbitrarinesse challenged to it self?

[r] *Magistratus est lex animata.* P. Martyr.

10ly, If you yeeld the Sword such a right where it can be master in the publick or civill State; why should it not have the same interest in the private, domesticall, and personall? So that pyrates, theeves, and robbers, may justly claim a right to that which they can lay their hands on, and be accountable to none for their spoil and rapine.

ὁ ἀντιτασσόμενος.

11ly, Whereas the Apostle to the Romanes, Chap. 13.2. forbiddeth *resistance* (or *contraordination*) *to the lawfull power ordained of God*, and that upon pain of *damnation* to be received by him that doth it, if force give a right to that power; his action, that resists with victory, shall be justifiable, and the resister shall gain a Crown instead of receiving damnation; and none shall fall under the guilt and penalty of resistance, but he that offers to resist, and cannot make it good. The sense then which this Position puts upon this text is catachresticall, and it glosseth the words so, as to be an incouragement to resist the power, for he that resisteth the power prosperously (according to it) possesseth justly that ordinance of God, and in truth purchaseth to himself (not damnation, but) domination.

Having thus, I hope, sufficiently cleered the duty of Allegiance to be not the violent intruders, but the oppressed and violently extruded Magistrates; I shall proceed to other Reasons against Subjects giving up themselves to the obedience of a usurping party.

3. If I should do that, I should yeeld assistance to the Usurper in his wrong doing, and usurpation; and so become a partaker of his sin: obedience to one, as the supreame Magistrate, is a comprehensive thing, and includes many duties towards him as a power, *viz:* Receiving Commission from him for offices,

or

or acts other wayes not competible to me; maintaining and defending him in his power by pay, counsell, intelligence, Arms, and prayers; all which I am bound to yeeld the Usurper, to my power, if I resigne mine allegiance up to him: and how shall I do these things, and not 1. support, and have communion with him in his wickednes. 2. Combine against, betray, and resist the right of the injurious dethroned Magistrate. 3. And make my self uncapable of obedience, or being a subject to the lawfull Power hereafter.

3. It were a publick wrong to the Nation I am a member of so to bestow mine allegiance; were I and the Countrey free from all tye of subjection (in the presupposed Case) to the expulsed Majestrate; yet I could not lawfully make such a private bagain of my allegiance, its the part and duty of a particular person in a Nation (that is joyned together as one body politick or Common-wealth) not to choose his head, or supreame Governor by his single election, or vote, but when a new Magistrate is to be erected, or Magistrate advanced, to attend the common and generall vote of the people, or body politick he is of; solitarily, or with a small party to alter the state and posture of my publick allegiance (in this case) would be sedition, and faction; the current of the people or community I am of is to be followed, at least where they justly dispose of the *Soveraignty* over them. It was in it selfe a loyall, and right resolution (had it been in such a case as this, and not misapplyed) which *Hushai* expresst, *Nay, but whom the Lord and this people, and all the men of Israel choose; his will I be, and him will I follow*; It would be to me (I confesse) a difficult case, and harder then I will here undertake to resolve, if the body of the Kingdom (in the case in hand) should either collectively, or representively conspire; notwithstanding their oaths, vows, and Covenants, to abrogate the ancient Soveraigne Power, and to set up the Usurpers; but that's not the present case, here is no generall consent of the Kingdom presupposed, or pleaded for in behalf of the Usurper; the dispute is about obedience to meer Usurpation. And in this state of things, to leave every man free to make over his allegiance by himself, is to open a doore to more divisions then ever yet were in any Age; or Nation, and would confound all, not an heptarchy;

1 Sam. 10. 27. 2 Sam. 19 41. 20. 1. but a chiliarchy, or myriarchy might follow. When *Saul* had a generall vote of the people to be King, they were children of Belial that refused him; and at *Davids* re-investing after *Absoloms* treason, and fall, the men of Israel challenged them of Judah for going about to restore the King without them; the far greater part of the Kingdom, and that man of Belial, *Sheba*, the son of *Bichri*, was justly pursued with the Sword unto death, for blowing a trumpet of defection from *David*, when they both had consented to re-advance him.

5. But there is a bar yet behind, of as main a strength as any yet stood on, to keep back such a submittance to the Usurper, and that is the Oaths, Vows, Protestations, and Covenants presupposed above to be taken by the people, for their owning, obeying and defending the power of Magistracy displaced, and in opposition to whose right the Usurper comes and continues in.

I have hitherto discussed the question in a case without reflection upon any particular Kingdom, or reall Subject; and so I shall do still, onely I shall borrow leave, in the prosecution of this Argument, to presuppose, in the aforesaid Case, the Oaths and Covenans were the same that have been taken in this Kingdom of *England*, the Author of the book called, *The lawfulnesse of obeying the present Government*, in his 11. page moveth an inquiry thus: *It were good to consider whether there be any clause in any Oath, or Covenant, which, in a fair and common sense forbid obedience to the Commands of the present Government, and Authority*: and proceeding, he onely makes enquiry into one clause of the Oath of Allegiance, which he strives to bow to his sense, and passeth by all besides. I shall speak to what he saith on that clause anon; and shall here only interrogate, or propound by way of *quære*, concerning divers clauses in the Oaths, Protestations, Vows and Covenants.

First, concerning the Oaths of Allegiance and Supremacy, whereas in the former, it is sworn, *I shall bear faith and true Allegiance to his Majestie, his Heirs, and Successors: and him and them will defend to the uttermost of my power, against all conspiracies, and attempts whatsoever, which shall be made against his, or their persons, their Crown, or dignity*. And in the latter, *I shall bear faith, and true allegiance to the Kings Highnesse, his Heirs, and lawfull Succes-*

sors:

ſors: and, to my power, ſhall aſſiſt, and defend all Juriſdictions, priviledges, preheminencies, and Authorities granted to the Kings Highneſſe, his Heirs, and Succeſſors; or united and annexed to the Imperiall Crown of this Realm. Firſt, do not theſe Oaths binde, whomſoever hath taken them, clearly, plainly, and *in terminis* to an *Allegiance*, over living his *Majeſties perſon*, and pitched upon his *Heirs and Succeſſors*; ſo that he is not free from the Oaths at his *Majeſties* deceaſe, or then left at randome to pay his *allegiance* to whom he will chooſe? 2. Do they not intend, by *His Majeſties Heirs and Succeſſors*, the ſame perſons, joyning them together with the copulative (*and*) and not uſing the diſcretive (*or*) and the former Oath twice comprizing both in the following clauſes under the ſame terme or pronoune, (*viz: them, theirs*) ſo that, according to theſe Oaths, *His Heirs*, are of right *his Succeſſors*, and none can be *his Succeſſor*, (whileſt he hath an Heir, and longer the Oath laſts not) but *his Heir*; and if any *conſpiracy or attempt* ſhould be made to prevent *his Heir* from being and continuing *his ſucceſſor*, or to make any one *his ſucceſſor* that is not *his heir*, (if he hath one) is not the Subject ſworn, by vertue of this Oath, to continue *his allegiance* to *his Heir* as the *right ſucceſſor*, and to defend him in that his right to his uttermoſt? 3. And doth not the tearm (lawfull) annexed to *Succeſſors* (in the Oath of Supremacy) manifeſtly exclude all cavill of a diſtinction betwixt *Heirs and ſucceſſors*; the word (*lawfull*) (whether you interpret it of legitimation of birth, or proximity of ſucceſſion in regard of line, according to the Law of the Land, entailing the Crown upon his Majeſties iſſue; or rather both the latter including the former, reſtraining ſucceſſors from meaning any other then his heirs? 4. And do not both theſe Oaths binde the ſwearer to aſſiſt and defend to his uttermoſt power, againſt all attempts, Monarchy, or the Kingly office, and Government (in the race of his Majeſtie) clearly expreſſed by many tearms, to wit, *Their Crown or dignity, all juriſdictions, privileges, prehemineces, and Authorities, granted to the Kings Highneſſe, his heirs, and ſucceſſors, or united, and annexed to the Imperial Crown of this Realm.* How then can he yeeld obedience to them that are not his heirs, nor lawfull ſucceſſors, nor do ſo much as wear his Crown, or ſway the Regall Scepter? How can he not oppoſe, and withſtand

them in the assistance and defence of the right *of his Majesties heirs and lawfull successors?*

2. Concerning the Vow and Protestation of the 5. of *May*, 1641. and the Solemn League and Covenant. 1. How can any that hath taken the said Protestation according to it, *maintain and defend the true Protestant Religion, expressed in the Doctrine of the Church of England, against all Popery, and Popish innovations within this Realm, contrary to the same Doctrine*; and yet yeeld obedience to an usurping authority, coming in, and holding in derogation of and oppositon to the lawfull Prince; when as the publick doctrine of that Church (layed down in the 2. Tome of Homilies, and the last Homily thereof approved of by the 35. Article of Religion) fully and flatly refuteth, and condemneth any Subjects removing, or deposing their Prince, upon any pretence whatsoever?

2ly, How can any man according to the Protestation, *maintain and defend, the power and priviledges of Parliament*, and according to the Covenant *preserve the rights and privileges of Parliament*, and yet yeeld obedience to a small party of one of the Houses of Parliament, as the Supreame Power, the said party excluding the rest of that House, and the other House wholly; and deposing the lawfull Prince, and abolishing the Office of the King, whose presence, personall, or legall, and politicall, hath been declared inseparable from the Parliament, and joyning with an Army, that with force hath demanded, and carried on these things?

3. How can he, according to the Protestation, *maintain and defend the lawfull rights, and liberties of the Subject*; and, according to the Covenant, preserve the liberties of the Kingdom; and yet obey, and own a meerly usurped power. Whereas the most fundamentall civill Liberty of a Kingdom, and Subjects is to have a Government over them, set up by the constitution, or consent of the people; not obtruded on them by those, who of their own will and power, without any calling from them, assume it to themselves?

4. How can he, according to the Covenant, *preserve and defend the Kings Majesties Person, and Authority*, &c. and yet yeeld obedience to those usurpers, who, after his death, cast down his Authority, and place themselves instead thereof as the

Supreame

Supreame Power; whereas his Authority, in the plain intention of the Covenant, is to be preserved, and defended beyond the tearm of his life, and in his posterity; as it appears from this clause compared with those words in the Preface, *Having before our eyes the glory of God, — the honour and happinesse of the Kings Majestie, and his posterity?*

5. Lastly, how doth he, according to the Protestation, *to his power, and as far as lawfully he may, oppose, and by all good wayes, and means endevour to bring to condigne punishment all such as shall either by force, practise, counsels, plots, conspiracies, or otherwise, do any thing to the contrary of any thing in this present Protestation contained*; and, according to the Covenant, *not suffer himself directly, or indirectly, by whatsoever combination, perswasion, or terror to be divided, or withdrawn from this blessed Union and conjunction; whether to make defection to the contrary part, or give himself to a detestable indifferencie, or neutrality in this cause, which so much concerneth the glory of God, the good of the Kingdome, and honour of the King, but, all the dayes of his life, zealously, and constantly continue therein against all opposition, and promote the same, according to his power, against all lets and impediments whatsoever*, that yeeldeth allegiance, and obedience to a party standing, and leading all those that agree to obey them in so palpable contradiction, and oppositon to some materiall points, and concernments of Religion, divers most fundamentall rights of the Parliament and people, and all the Authority and whole being of the King, contained and covenanted for, in the aforesaid Protestation and Covenant respectively.

CHAP. III.

The question discussed, Whether submission to, and acting under a usurped Power for the time, be lawfull, with a reservation of Allegiance to the lawfull Power supposed to be expulsed.

I Now come to enquire into the other opinion before mentioned, *viz:* That one may submit, and act under a usurped Power, for the time, and during the intervall of its prevalency; with reservation of allegiance, as due and cordially devoted to the lawfull Power expulsed. And about this we

shall

shall not insist long, because we find not much contestation or difficulty.

In regard of the justnes, and necessity of some things which may be the subject, or matter of the Usurpers command, and the Arbitrarinesse of others, and the lawfulnesse of either, not depending upon the command or warrant of a superior, but resulting out of the nature of the action it selfe; so that a private man might do it, were there no Magistrate to command it, or no command from the Magistrate for it. We must needs grant, there are things which may be done upon the Usurpers command of injunction, (though not because or by vertue of it) for the command of him that unwarrantably assumeth power, cannot, by it selfe, make that unlawfull which were lawfull if that were not. For instance, the performance of acts of common equity, charity, order, publick utility, and self-preservation is requisite: suppose it be in concurrence with a Usurpers command, and in thus doing we do materially, but not formally obey him; the ground of acting, in such things, being not at all any relation, or principle of subjection to him; but conscience of obedience to the will of God, and due respect to others, and our own safety, and good. Under this sort of actions I comprehend:

1. Taking up Arms for the preservation of our selves and the Countrey against a common Enemy, upon the Usupers summons; the which we might do of our selves, were there no Authority; or if a just Authority were in being, yet if it could not, or did not, maturely enough call us forth to it.

2. Payment of taxes, and bearing other impositions for the usurping power, where, and while we are under his compulsive power, because such contributions may, and will be taken whether I will pay them or not; and I yeeld them under his enforcement, as a ransome for my life, or liberty, or somewhat else that is better to me then the payment; and consequently I am to choose the parting with it as the lesse evil, rather then with that which is better, which to loose is to incur a greater evill for the avoidance of a lesse. In this point Mr. *Ashcam*, the afore-named Author, (Part. 2. Chap. 1. page 35.) determineth well (had he not contradicted (as I understand him) that he delivers in this and the next Chap. with that assertion of his

part.

part. 1. chap. 6, page 25.) distinguishing rightly *betwixt that which cannot be had, nor the value of it, unlesse I actually give it; and that which may be taken whether I contribute it or no.* Or this latter kinde if paying of Taxes in this case; a herein I am but morally passive, as a man that is fallen into the hands of a pack of bloodie theeves; and, being demanded it, takes his purse out of his pocket, and delivers it to them, *though with his own hand* (saith that Author) *he puts his purse into their hands, yet the Law cals not that a gift, nor excuseth the thief for taking it, but all contrary.* Or a man, apprehended by a party of the invading Enemies, or Usurpers Army, walks or rides along with them to their muster or battell, when as he cannot escape them, and otherwise they would draw him. But it is commonly objected thus. *Obj.* This payment or other charge is taken, and will be used to an evill use as to maintain Usurpation. *R:* But that's beyond my deliberation, not in my power to prevent; it will not be avoided by putting them to force it from me, but rather more gain will accrue to them, and damage to me if I stand out; my denying will be made an occasion by them to take more: this case is like that of entering into a Covenant with those that in covenanting we know before hand will swear by a false god, wherein Divines b resolue, the partie swearing by the true God participateth not in his sin that swears by a false one, in as much as he communicates with him in the Covenant, not in the oath taken on his part, and provides thereby for his necessarie security: and thus did *Abraham*, and *Jacob*, in their respective Covenants with *Abimeleck* and *Laban*.

a *Nolite igitur fortunam in culpam convertere; neq; regis injuriam hujus crimen putare; nec consilium ex necessitate, nec voluntatem ex vi interpretari.* Cicero Orat. 39. pro C. Rabino Posthumo. So he defendeth *Posthumus* his changing his Romane gown for a cloak at Alexandria, as compelled by K: *Ptolomie.*

b Augustinus ad publicolam. Epist. 154. Gen. 21. 31. 31. 31.

3. Complaining, petitioning, or going to Law before the Magistrates or Courts authorized by the Usurpers. (Provided, you give not the Usurpers, to whom you petition, such Titles as you give to the lawfull Magistrate.) In thus doing, I seek my necessarie self preservation; neither do I yeeld, or ascribe to them to whom I have recourse any just power of judicature, or participate in their sin of usurping it; onely I acknowledge they have might and ability in their hand to right me; which, though they ought not to assume, yet I may take the benefit of their unjust use of it; as a poore man may receive relief at the hands of him that hath gotten those goods he distributeth unjustly

Excusantur à peccato inducendi tyrannum ad actum, & opus illicitum petentes ab illo justitiã, quia aũ

unjustly; and I may receive my money with a good conscience, from the hands of a thief that is willing to return it to me, though he took it by robbery, from another thief that robbed me of it; and if the party, with whom I have a controversie for my right, will agree to refer the matter, betwixt us, to a private person as an arbitrator, and stand to his arbitrement; that is a lawfull means of coming by my own, though by his help, and award that hath not claim of Authority over me? my submitting therefore my private right to the judgement of an Usurping Magistracy, is no placing or owning a publick power of judicature to be in him. It hath been ordinary (and there is no doubt of the lawfulnesse of it) for a Souldier to ask quarter, a prisoner liberty, a man his plundered goods of his Enemie: yet in all this there is no concession of a legall power in that Enemie to be a judge over the said Petitioners, either in case of life, goods, or liberty; onely in the form of addresse to the Usurper, we had need be cautelous that such a style be not used as will be a plain concession of his title to the power which he usurps.

But in granting liberty of concurrence with some commands of an usurped Authority, we neither yeeld any obedience at all to be due, or performable to it; nor can we allow a correspondence with it in divers things, and therefore we are to put a difference.

First, betwixt things that are in themselves necessary, and those that are of a middle and an indifferent nature in themselves considered. In the latter, though, in some cases, I may act upon the Usurpers injunction; as our Saviour payed tribute where he was not bound to it, to avoid scandall; yet I must be cautious, 1. of owning, justifying, or upholding the usurpation, or injustice of the party commanding, the very appearance whereof I must as much as I can avoid. So did our Saviour, in paying the tribute-gatherers their demand, by declaring his freedom, and the consideration upon which he paid, *viz*: not the equitie of the demand, but his willingnesse to prevent scandall. And therefore in the observing of a duty of Religion, necessary in it selfe, and appointed, by unjustifiable Authority, to be kept on such a set day, which is in it selfe, arbitrary; the best way is, to take another day for it,

for

petunt actum illicitum, sed justitiam illius actus illiciti pie interpretandæ sunt petitiones tam justitiæ quam honestæ gratiæ quæ offerantur Tyrannis, scil cet si vis, seu ex quo vis detinere, & exercere hoc dominium, utere illo juste, utere honeste, utere pie, utere ad utilitatem publicam, & privatorum, prout decoret dominium nec petunt actum usurpatum, sed qualitatem sanctam in actu usurpato exercendo. Cajetan summula, Tit. Remp. tyrannice, &c.

for the shunning of the appearance of the evil of obeying an unjust power. 2. Of doing any thing that I may foresee will bring a worse scandall being acted, then the omission of it would; it being required of a Christian, where scandall-taking lyes both wayes (as not seldome it doth) to shun the offence that is of worse consequence, which is usually that which is more generally taken, or by persons more considerable, or worthy of tender respect. The Apostle *Paul*, condemned Judaisme in *Peter*, and others at Antioch, practised in favour of a few, where the most part were Gentile Christians, *Gal.* 2. 11. &c. but admitted it at Jerusalem, where the greater sort were beleeving Jews, *Act.* 21. 20, &c.

2. Betwixt morall, or prudentiall acts competible to private men, or subjects, and politicall acts, or judiciall proceedings that flow from power, and Authority inherent in the person that acts them, or are the issues of distributive justice, and either come forth from a person clothed with Government, or unto which is requisite a stamp of Authority to make them lawfull, and justifiable: as to bear the office of a Magistrate, or Commander in Civill or Military affairs, or to be any under Agent, or servant in carrying on, or assisting the Government. An Usurper, in giving out Commissions, Commands or Warrants for proceedings of this nature, I conceive may not, in this kinde, be obeyed. Men are not to act as subordinate rulers, or agents, under such a power, or as sent by him as supreame in the Apostles sense, 1 *Pet.* 2. 14. For,

1. The Usurpers authority being indeed null, and of no effect, he being in truth but in a private mans capacity, as to the power he assumes; he cannot communicate, or derive any authority unto me, whereby I may act, that which before I could not; so that those actions, which require the seal of Authority to make them lawfull, and which without it would be irregular and sinfull, it must needs be clearly unlawfull for me to do, by vertue of his Commission. Conscientious advised men will generally judge it presumption, violence, oppression, bloodshed, respectively for a private man to take upon him of himself, to imprison, chastise, amerce, or put to death any supposed, or really manifested malefactor; and if I have no other humane warrant but the Usurpers, it leaving me but in

a private mans capacitie, will leave my actions of that nature under no better a character. If I should, being about such undertakings, be asked that question of our Saviour. *Luk.* 12.14 *Man, who made thee a judge or a divider over us*? What satisfaction would it be to him that so enquireth, or to mine own conscience to alledg the name of the Usurper, who, as to Supreme Authority, and consequently to the making of a competent Officer of Justice, is as good as no body.

2ly, So to act would make me a usurper also, and bring me in to be a partner in the supreme usurpers sins; in as much as politicall or State instruments, to wit, their subordinate agents, share together with the superior in the morall qualification of the work of Government.

3ly, This were manifestly to uphold, and maintain Usurpation; thus I should contribute assistance and support to the unjust power, and oppose the right of him, or them against whom he holds it; they that favour this kinde of acting as requisite, in regard of the subjects protection, and safety, seem not to consider, that a subordinate officer acting looketh upward, as well as downward; and he that is such a one to the Usurper, serves his turn of subsistence in an unlawfull possession as much, or more then the subjects benefit. For first, he acknowledgeth and justifieth his Authority as sufficient and valid by officiating under, and by it. 2. He keeps up that authority, and extends it to as many as he hath to do with. 3. He gives an example and encouragement to others to embrace and propagate it, as he himselfe doth. 4. He layes an engagement upon himselfe to stand or fall with the Usurper; and so to do his utmost for him. 5. He involves himselfe, either wittingly, or blindfoldly in a concurrence with those counsels, and actions, which both in their own nature, and in the intention, and projection of the Usurper, directly tend to the Usurpers establishment, and the impeachment of the lawfull Governors claim, and re-advancement.

Upon these grounds, and the like, the secluded and the se-joyned members (in the case stated, Chap. 1.) had need be advised well before they enter, or act among the presupposed Usurpers; though they might be admitted by them without questioning, or purging. I question how they can enter amongst

amongst them without self-soyling: though they should, in going in, resolve to act honestly, yet, I see not how they can be untainted in a confession with those, who in their present comprehension or totality, assume a power not legally in them, and act legislatively, and otherwise in the highest sphere of Supremacie: a force being upon the House, and the majority of Members, and the Authority of the King, and the Lords-House being professedly excluded by them. They that are out may do well to resolve, before they joyn, how it can be lawfull for them that sit to act at all (though never so just things) the whole, or body, to which they belong, being so mangled in its Members, and manacled in its freedome. And, if at all they may act, how according to Law, conscience, and their Oaths and Covenants, they can govern in that solitarinesse of supremacie, and deposition of their compeers: if they think these things unjustifiable in them that sit, have they not cause to be warie how they involve themselves in such mens actings, whilest they stand in that posture? Besides, that they in coming in help to strengthen the Usurpers, by increasing their number, and giving them countenance in the eye of the Kingdom, as much as if they in all things concurred with them; for without the House, who knows how men sway, or give their votes? And, on the other hand, they weaken and much prejudice the claim of the lawfull Power, by appearing on the contrary party, putting themselves into an incapacity to act for it, as otherwise they might, and ingaging themselves to assist, or at least, not to oppose the Usurpers.

Finally, let them recollect, before they enter that doore, what they have sworn to his late Majestie, his Heirs, and lawfull Successors; what to the Parliaments Power, rights and priviledges, and what to the Kingdom, and Subjects lawfull rights and priviledges; and deliberate how the keeping of those things, and sitting down with these men, will be reconciled. I finde that even wise Heathens have scrupled at this, without the supposition of such Oaths.

Ec magnum sit τῶν πολιτικῶν ἐγκλημάτων, veniendumne sit in Consilium tyranni, si in aliqua de re bona deliberaturus sit. Quare si quid ejusmodi eventrit ut accersamur, quid censeas mihi faciendum, ut ig, scribito. Nihil enim mihi adhuc accidit, quod majoris consilii est. M. T. Cicero, epist. ad T. Pomp Atticum, l. 10. ep. 1.

CHAP: IIII.

The obligatorineſſe of the Oaths and Covenant, urged in the 2d. Chap: againſt obedience to Uſurpers, made good againſt divers late Authors.

BEfore I take in hand to anſwer Arguments that are brought for the confirmation of thoſe two opinions for obedience to Uſurpation, againſt which I have argued in the preceding Chapters; it will be convenient in this place to take notice of ſuch allegations and Exceptions, as are made againſt the obligation of the Oaths and Covenants before urged as binding out from that obedience: ſundry late Authors having pleaded that the Oaths, and Covenant either are not now in force, but expired, or do not extend to, and binde in the caſe to which they are applyed. I begin with the Remonſtrance preſented to the Houſe of Commons, *Novemb:* 20. 1648. which unto the clauſe in the Solemn League and Covenant, Art: 3. obliging *to endevour to preſerve and defend the Kings Majeſties perſon and Authority, in the preſervation and defence of the true Religion, and liberties of the Kingdom*: alledgeth divers things, ſome of which concern onely the obligation to the preſervation of the Kings perſon, thoſe are paſt conſideration, others reflect upon it in relation to his Authority, as unto which I have urged it to be ſtill in force, and therefore ſhall examine what the Remonſtrance ſaith for the invalidating of it as one to that, bringing in onely ſo much of its argumentation, as can be conſtrued to tend to this purpoſe: and of this nature I obſerve two Allegations.

1. *The words (in the preſervation and defence of the true Religion, and Liberties of the Kingdoms) are a reſtriction to the engagement for preſervation of the Kings perſon, and Authority, ſo as to oblige them no further, nor in any other way then ſhall be conſiſtent with the preſervation and defence of the true Religion, and liberties of the Kingdoms, but if by reaſon and experience we finde the preſervation and defence of his perſon to be not ſafe, but full of viſible danger (if not certainly deſtructive) to Religion, or publick intereſt, then ſurely (by the Covenant it ſelf) the preſervation of his perſon or authority is not to be endevoured ſo far, or in ſuch a way, or at leaſt the Covenant obligeth not to it but againſt it*: page 55, 56.

1. It is not necessarie nor proper to take the words, in the preservation, &c. as restrictive to the engagement either way, that is either for the preservation and defence of the Kings person and Authority on the one hand; or of the true Religion and Liberties of the Kingdome on the other: It is not necessarie (I say) for those words in the Article (in our severall vocations) are an expresse, and fully sufficient constriction, taking in, and binding to all lawfull and just wayes preserving and defending each of them, and excluding all unlawfull. Neither is it proper, [in], there being clearly conjunctive, and as much as [with] and equally looking both wayes, that is, both to the preservation and defence of that which goes before, and that which follows, unto the preservation and defence of all which (though they be not of equall worth or intrest, so that one of them must come behinde the other in the order of our endevours of their preservation and defence, yet) the Covenant binds equally (in regard of the firmnesse of the obligation) yet if any shall still contend, that clause to be restrictive in that manner which the Remonstrance saith, I will not strive in a verball contention with him; for the taking of it so no more lesseneth our obligation to the preservation of the Kings Authority, then if it had not been inserted; we being tyed notwithstanding it, to all just wayes of preservation thereof, and no more had been involved if it had been left out.

2. But the sinews of this Argument lyeth in the pretended or implyed inconsistency betwixt the preservation and defence of the Kings Person, and Authority, and the preservation, and defence of Religion and the Kingdoms Liberties, unto which I say:

1. There is doubtlesse a faire consistencie, non oppositio, or agreement betwixt the safeties of every one of these, the being of each of them may and can stand with the other, it is a groundlesse surmise, and grosse absurditie to imagine an inconsistencie betwixt the just intrest of any of them, our taking of them together into the Covenant yeeldeth thus much; if there were any incoexistency amongst them, we could not have sworn to their joynt preservation; or if we did the Oath was of impossibles, and so (as to this branch) both unlawfull and void, or non-obliging in the making of it.[a]

[a] Regula juris rei impossibilis nulla obligatio.

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2. An endevour to preserve the one and the other will well enough stand together; a lawfull power indeed actually and effectually to preserve them all may happen to be wanting, and any one of them may fall under danger, and I may want just means to relieve it, but an endevour (which can onely import a doing what is within power and warrant) may be yeelded still to the preservation of every of them.

3. Seeing then that an inconsistibility either of the things one with another, or of the endevouring their preservation cannot be pleaded as possibly incident or occurrent, evident it is, that there cannot at any time lye a necessitie of taking away of any of them, and that the obligation of the Covenant to the endevour of preserving every of them continually stands in force during their respective existence, and consequently it bindeth out from intending, seeking, attempting, or prosecuting the abolishing or destruction of any of them; for that is indeed truly inconsistent with the said endevour, and therefore a palpable violation of the Covenant.

It must here be granted, that the lawfull and necessary defence and preservation of one of them, sometimes may so imploy me that I cannot at that time by the same meanes act for the others safety; yea what I act for one, may put the other in hazard, and in the issue not onely be accompanied with, but (though against my will, and endevours to the utmost of my lawfull capacity) contingently, and besides my intention prove the losse and ruine of the other: and this is incident not from any contrariety or inconsistencie that is betwixt them, but both because they are distinct, and separable things, and so cannot alwayes, and by the same medium be concurrently prosecuted: and because some of them are more worthy then the other, which must therefore have the preheminency thus far, that if they cannot altogether with my best endevours be secured, I am to prefer the security of the most precious, and expose any of the other rather to danger then it. As for instance, it will (I suppose) be admitted to be agreeable to the Covenant, for the Kingdom rather to omit the safeguarding of their Liberties, and put them to the hazard then the true Religion, where both cannot be joyntly put out of danger: but all this amounts not to a disobligement from

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the endevour of preserving them all, nor to a liberty upon any emergency of active, direct, and purposed making away, or removing of any of them, though under pretence of securing the other. I have read of one *Alcon*, who finding his son fast on sleep upon the grasse, and a Serpent creeping upon his breast, he not apprehending how otherwise it was possible to save his son, took his Bow, and shot at the Serpent upon the boyes breast, which (though to the manifest endangering of his life) yet he chose rather to take that course, then by suffering the Serpent to leave his life to a more certain destruction; and either his art or good hap was such, as that he prevented and slew the Serpent, and preserved his Son [b]: those whom we are bound and most solicitous to preserve, we may upon an extreame exigence put in some hazard that we may preserve them; but there is a great difference betwixt this, and a deliberate purposed, declared prosecuting them to destruction.

b *Ars erat esse patrẽ vicit natura periclum: Et pariter juvenem somnoque & morte levavit.* Manilius li. 3.

3. But how doth the Remonstrancer prove the Assumption, *viz: The inconsistency pretended betwixt the endevour of the preservation of the Kings person and Authority, and the preservation of Religion and liberty?* thus he saith, *By reason and experience we finde the preservation and defence of his person and Authority, to be not safe, but full of visible danger (if not certainly destructive) to religion, or publick Intrest.*

If the one could be said to be certainly destructiue to the other, you would have said it without an [*if not*] but it seems you have not confidence to assever so much, and yet they cannot be purely inconsistent without such a destructivenesse; so that your own extenuation sufficiently discovers the weaknes of your proof; all that you affirm is, *That there is no safetie, but a full visible danger* in the preservation which you impugne.

1. The danger you pretend is in the disposall and use of the things to be preserved, not in the nature of the things. For instance, the Kings Authority is politically and morally good, the ordinance of God, and if well used may be eminently advantagious; if evilly used may be dangerous enough to Religion and liberties: the like may also be said of the privileges of the Parliament, and of the liberties of the Kingdoms in relation to Religion, and to each other; will you thence infer an inconsistency of these with Religion, or a disobligement

from

from the Covenant for preſervation and defence of theſe?

2. As there may be danger that way to the things ſpecified, ſo there may be danger and inſecurity to the ſame things on the other hand, *viz.* in the deſtruction of the Kings perſon (ſuppoſe it were undone) and Authority, and let impartiall Reaſon and Experience judge, whether the preſervation or deſtruction thereof hath more danger in it to Religion, and the Kingdoms Liberty.

3. But ſeeing there may be ſome danger on each ſide, and in the preſervation of the Kings Authority, there is no more pretended but danger, and that but of ſuffering, not of ſin, it is apparent, that as there is no ſuch inconſiſtency as is intimated, ſo the obligation of the Covenant to the preſervation of the Kings Authority ſtands good, and our ſafeſt way is to avoid the horrid ſin, and greater danger of Covenant-breaking, by ſtanding upon the ſaid preſervation.

2ly, The other thing which the Remonſtrance alledgeth, and is to be cleared, is this. *When ſeverall perſons joyning to make a Covenant, do make a covenanting clauſe therein to the good or beneſit of another perſon not preſent, nor party to the agreement, but whom, and whoſe Intereſt they would willingly provide for as well as for their own, to the end he might joyn with them in the agreement, and partake the beneſit thereof as well as themſelves, if this abſent party (when it is tendered to him for his conjunction) ſhall not accept the Agreement, but refuſe to joyn in, and oppoſe it, and begin, proſecute and multiply conteſts with all the Covenanters about the matters contained in it. Surely that perſon in ſo doing by his once refuſing upon a fair and full tender, ſets the other Covenanters free from any further obligation, by vertue of that Covenant, as to what concerns his beneſit or intereſt therein. Now whether this be not your caſe,* &c.

1. True indeed, a releaſement from Covenants and promiſſory oaths, which concern matters betwixt man and man is granted lawfull ſome wayes: But, 1. this muſt be done by the party with whom the Covenant, and to whom the Oath is made[c], but as the Remonſtrancer acknowledgeth, this Covenant was made the King being not preſent, nor a party covenanting, or covenanted with but a third perſon, the perſons covenanting, and covenanted with mutually (as by the Introductory part is manifeſt) were the Noblemen, Barons, Knights,

[c] *Si is cui juratur ratum habuerit juramentum, & velit ſervari, non poteſt ab alia quacunq; tertia perſona relaxari ratio eſt, quia nemo poteſt jus alteri acquiſitum, niſi ipſe conſenſerit adimere.* D. Sander de juram. 2. rom. oblig. prælect. 7. ſect. 8.

Knights &c. in the Kingdoms of *England*, *Scotland*, and *Ireland*, it was (it may be) desired, and hoped that the King and his issue would afterwards approve and joyn in it, but the Covenant was actually plighted, and therefore did actually binde in every branch of it they not taking it; and (the parties with whom we covenanted not releasing us) the pretended refusall of the King could be no discharge from it. 2. A releasement can be made by the party covenanted with and sworn to, only where the Covenant is for the particular and proper interest of that party, or so far only as concerneth him, but not to the prejudice of a third parties concernment without his consent [d]; but the Covenant (even in that part of it) was not meerly or chiefly of a private or personall importance to the King himself, but was and is of a publike interest to the Covenanters themselves and the Kingdoms; the Kings refusall therefore and opposition to it, could be no release from it: we say on all hands, the King is for the Kingdom as the means is for the end. *We have ten parts in the King*, said the men of *Israel* of *David*; and at another time they said and sware, *Thou shalt no more go out with us to battel, that thou quench not the light of Israel. What portion have we in David? and we have none inheritance in the son of Jesse*, the ten Tribes said, when they made a revolt from, and rebelled against *Rehoboam*.

[d] Dico sextò relaxationem partis valere ad vinculum juramenti solvendum, quantum ipsius interest: non tamen valere in præjudicium tertiæ personæ. Ratio est, quia potest quilibet per actum suum de jure proprio quantum vult remittere: sed non potest quisquam de alieno jure quicquam demere, ipso vel inconsulto vel invito, & alterius cujusquam interest ex aliquo suo jure obligationem non solvi, obligatio non solvitur. Ibid.

The Introduction of the Covenant in laying down the concernments and ends for the making of it, expresseth it self thus: *Having before our eyes the glory of God, and the advancement of the kingdome of our Lord and Saviour Jesus Christ, the honour and happinesse of the Kings Majesty and his posterity, and the true publike liberty, safety and peace of the Kingdoms, wherein every ones private condition is included.* And a little afterwards, *We have for the preservation of our selves and our Religion, from utter ruine and destruction, resolved and determined to enter into a mutual and solemn League and Covenant*, &c. And Art. 6. it stileth its cause, *This common cause of Religion, liberty and peace of the Kingdomes*; *which cause*, it saith presently after, *so much concerneth the glory of God, the good of the Kingdoms, and honour of the King.*

2. The King never refused to agree to, nor did he oppose the matter of this particular clause; as touching this there could be no dissent on his part, his prescribing and standing upon

upon the Oaths of Allegiance and Supremacy, wherein this clause is contained, his avowing the difference and war on his part to be for the defence of his person and authority: his putting forth Oaths to them that adhered to him for the preservation of these, makes it as clear as noon-day that he refused and opposed not this branch. Now upon this consideration, the Remostrancer hath not only failed in his allegation, but overthrown his own argument: he saying in the place before cited, *Although the Kings refusing sets the Covenanters free from any further obligation by vertue of that Covenant, as to what concerns his interest and benefit therein, yet the Covenant as to other matters concerning the right and benefit of the Covenanters one from another, stands still obliging, and in force.* I may by the same reason say, the Kings refusing the Covenant upon exception against other clauses, not this, and his opposing other matters in the Covenant, not this, could not disengage or release the Covenanters from this, about which there was not the least dissent or reluctancy, but a concurrence full enough on his part: so that the Covenant must stand still obliging and in force as to this part.

3. If the Kings said refusall and oppositon could have discharged us from this member of the Covenant, as to his own person and interest in the Authority, yet with all your straining you cannot stretch them to our release from preservation and defence of the Kingly Authority in relation to his posterity, who were in proximity to him interested in it; and for whose interest therein the Covenant was also made [e]; and whose refusall of it, nor yet a tender of it to them, you do not, cannot once plead.

[e] Having before our eyes the honour & happinesse of the Kings Majesty, and his posterity.

I have done with the wrong glosse of the Remonstrancer, endeavouring to impeach the obligation of this clause of the Covenant. I finde another (a dear friend of his) tampering with it also to elude the tye of it; and he offers it no lesse violence, but in a more unhandsome and grosse manner. It is that Polemick, or Army-Divine, M. *J.G.* In his Defence of the Honourable Sentence, &c. The man in that Book undertaketh, and bends his skill to a double, unhappy, and crosse design, to wit, to varnish and guild over that which is very foul, and to besmear and obscure that which is very clear. In his prosecution

ſecution of the latter he fals upon this ſentence of the Covenant, in dealing with which he correſpondeth with the Remonſtrancer, and as this hath chalenged to himſelf a prerogative to enforce men and Magiſtrates, ſo doth he arrogate to himſelf to be a bold inforcer of words and Covenants; a more ſtrange and preſumptuous perverting of plain words I never read nor heard, then that which he uſeth to this clauſe, when he ſaith pag. 51. *Evident it is, that thoſe words in the Covenant in the preſervation and defence of the true Religion, and liberties of the Kingdoms, import a condition to be performed on the Kings part, without the performance whereof, the Covenant obligeth no man to the preſervation or defence of his Perſon or Authority.* And this condition he makes to be, pag. 52, 53. *That he preſerve and defend the true Religion, and liberties of the Kingdom:* and of this his paraphraſe of the words he ſaith, *If this be not the clear meaning and importance of them, the Covenant is a Barbarian unto me, I underſtand not the Engliſh of it.* The vaſt exorbitancy, audaciouſneſſe and impiety of this his wreſting, and ſtraining of theſe plain words, I leave the Reader to take the meaſure of: I ſhall only endeavour to free them from this his diſtortion.

1. Let the words themſelves ſpeak, they do not ſay in his preſervation and defence, &c. but in the preſervation and defence, &c. plainly referring to the ſame preſervation and defence of Religion and Liberties which is before promiſed, and ſworn in this and the preceding Articles, and as evidently referring to the ſame perſons preſervation, and defence of them here, which are to preſerve and defend them in the former clauſes, and which are to preſerve and defend the Kings Majeſties perſon and Authority in this, *viz.* the Covenanters. If the Covenant had intended to pitch the preſervation and defence in this clauſe upon another perſon, or perſons, as the performers, beſides thoſe to whom the ſame actions are referred immediatly before, it would have pointed them out diſtinctly: but when it expreſſes no other, ordinary conſtruction will attribute them to the parties before nominated: and no regular conſtruction can put them upon any other. This reading is plain Engliſh to him that knows the language, and will underſtand, and M. *G.* proves himſelf a barbarous dealer with the Covenant, in that he will have it, either to admit of

his antigrammaticall sense, or to be a Barbarian to him. I dare appeal to M. *G*s. own conscience, if he be not either speechlesse or a Barbarian to him, whether when he took this Covenant, he understood this clause in the meaning he would now thrust upon it; or rather hath not played the *Dædalus* since, in shaping and bringing forth this sense to serve his turn, and defend what hath been since acted.

2. In making this the Importance of those words, M. *G.* contradicts his friend, or Patron the Remonstrancer, in his expounding of them, and takes away the very medium, or ground of his argument before brought in out of his book, pag. 55,56. and answered above. For he pag. 55. takes those words either *as a restriction to the engagement for preservation of the Kings person and Authority, to wit, as obliging no further then is consistent therewith*: yea, he proposeth whether the said engagement may not be so understood as *to be fulfilled in the preservation of Religion and Liberties*; neither of which senses can carry that clause to the King as the performer: and in pag. 56. he explaineth *this preservation and defence of Religion and Liberties*, to be *the Parliaments covenanted utmost endeavor to preserve them*. Let M. *J. G.* then leave endeavouring to reconcile the Covenant and his cause, which are too great odds to be reconcileable, and go make the Remonstrancer and himself friends, who differ so diametrically in their sense of these words.

3. How will M. *G.* make this sense of his, and the proceedings against the late King stand together? for before the King was so proceeded against, he had consented to all that was positively propos'd to him for Religion, at least for three years, and for the privative part propounded, to wit, the abolition of Episcopacy, he had not denied it, but granted the present suspension, and referred the utter extirpation of it to the deliberation of the Assembly, and ordering of Parliament; against whose consent he had agreed nothing should be done for the restoring of it; and had granted fully the Parliaments overtures for Liberties. Neither doth the Remonstrancer, or any other (as far as I have observed) insist on the shortnesse of the Kings concessions in any particulars of either nature, as the ground of those capitall proceedings, but on the inexpiableness of his former facts, and the unsafeness of trusting him

for future upon any terms. If then the King, immediatly before the fatall profecution againſt him, did (as his preſent ſtate would permit) concurre ſo amply in the preſervation of Religion and Liberties, they were bound that had taken this Covenant by vertue of this clauſe taken in M. *Gs.* ſenſe, whatever had been his former carriage) then to endeavour the preſervation of his perſon and Authority. The Covenant in this branch is indefinite, and unreſtrained in regard of time; it doth not ſay (ſuppoſe M. *Gs.* meaning had been its words) we ſhall preſerve the Kings perſon and Authority, if he ſhall (within a year or two after this) preſerve Religion and Liberties; but obligeth the Covenanters whenever the King ſhould join in preſerving Religion and Liberties (as M. *G.* underſtandeth it) to the preſervation of his perſon and Authority. Here then M. *G.* in ſtead of weakning the Covenant, as to the end it was urged by thoſe whom he oppoſeth, hath by wringing turned it againſt himſelf, and that his adored cauſe which he would have defended, and that with more ſtrength then is in any of thoſe reaſons (or rather ſhifts and colours) brought by himſelf or any other *Roſcius*—for it.

4. If that indeed were the ſenſe of that clauſe which he would out-face us into the accepting of, what can be ſaid againſt the binding of it to the preſervation and defence of the Kingly Authority ſtill? (though the then King be deceaſed) it being before proved, that this clauſe obligeth to it in reference to the Kings poſterity, againſt whom there can be no Objection of a fail in this ſuppoſed condition, it being unperformable without default whileſt poſſeſſion of the Authority is withheld; and the Authority being withheld before, either any refuſall of the ſuppoſed condition by him that ſhould perform it, or any overture to him for the obtaining of it be made.

I have thus done with the exceptions made againſt the obligatorineſſe of the Covenant, in the matter in hand; I now paſſe to the Examination of what is pleaded againſt the force of the Oaths of Allegiance, amongſt the impugners of them; I'le begin with him whom I had laſt to deal with, M. *J. G.* who in the ſame book, pag. 58, 59, 60. thinks to diſcharge us from theſe bonds, with a Reaſon framed as followeth.

(In recitall whereof I ſhall rehearſe as much of him as expreſ-

seth his Argumentation, omitting those two heterogeneons instances [*of keeping back a mad mans sword, and of a States dis-engagement from league with another State that hath first broken league with it*] as impertinent both to his reason and our case.)

Peter Martyr (saith M. *G.*) *well observes concerning the promises of God* [*that they are to be understood according to the present state and condition of things when they are made*] *meaning that no performance of them is intended by God, in case men shall decline from that integrity under which, and in relation unto which such promises were made unto them: so neither are the promises of men, whether made with oath or without, to be so understood, as if the makers of them stood bound to perform the terms of them under any possible change or alteration whatsoever in the persons to whom they are made. Chrysost. writing upon those words,* Mat. 19. 28. *shews, that* Judas *though the promise of sitting upon a throne was made to him as well as unto any other, yet by reason of that change which afterwards appeared in him, through his wickednesse, forfeited and lost his right of interest in that promise: nor doth any promise, though confirmed with an oath of allegiance, obedience, or subjection unto a King, and his Successors or posterity, binde any longer or otherwise, either before God or men, then whilest, and as this King or his successors shall continue in the same deportment of themselves in the discharge of their trust, and administration of their power, whereby they commended themselves to us at the time when we sware such allegiance to them, and in consideration and expectation whereof the same was sworn by us: therefore the King being so notoriously changed, &c. evident it is that God himself by the tenour and importment of his promises, and Jesus Christ by the like tenour and import of his, fully and fairly acquits us from all engagements and ties, which the Oath of Allegiance at the time of our taking it laied upon us.*

2 Pet. 1. 4. Psal. 138. 2. What? and must *the exceeding great and precious promises of God*, and his fidelity and truth therein, *which he hath magnified above all his Name*, be thus traduced? must the honour of God, which is so much concerned in taking, and violated in breaking an Oath, be yet much more impeached in the bringing in, and mis-reporting of his example to patronise mens falshood and perjury therein? And when an Oath cannot lawfully be dispensed with, or justly rendred non-obliging, must the forcible and ungodly bursting of it asunder be fathered on him, who

is

is *the Truth, the Amen, the faithfull and true witnesse*?

But to endeavour a vindication briefly.

1. M. *G.* you have here done that learned and solid Divine *P. Martyr* a double wrong. 1. In curtailing his sentence, and breaking it off in the middle, suppressing those following words which would have cleared his sense to be none of yours. 2. In mis-translating the words which you cite, his words truly rendred and rehearsed out are these, *Therefore those promises of God* (to wit, that of our Saviour. *Matth.* 19.28. which he had in the Section last before brought in, with *Chrysostomes* interpretation upon it, quoted by you, and those of *Gen* 9.2. *Jer.*18.7,8. with *Chrysostome* also upon them) *are to be understood with reference to the present state of things: wherefore when we hear the promises of God, it behoves us thus to conceive, either they have some condition annexed, or they are layd down absolutely; Furthermore either they are of force only for the present time, or they must be fulfilled in after time*[f]. It is by this recitall evident, how you by leaving out the word [*illa*] have falsified *P. Martyrs* text, who is speaking only of some particular promises, conditionally made, and (as he saith) respecting the present time, which he distinguisheth from others; but you would have him understood of any promises, and draw an universall negative from his words.

2. You are not content to misconstrue this servant of God, but you dare to mis-represent, and mistate the minde of God himself; you say indefinitely of the promises of God, *That no performance of them is intended by God*, &c. whereas the Scripture is clear (and most unhappy were men if it were otherwise) that 1. there are absolute promises wherein performance is intended by God, notwithstanding men shall decline in their said integrity, and whereunto such promises have no relation as to their validity or fullfilling. Take for instance, *Psal.*89.33, 34. *Hosea* 14.4. *Ezek.* 36.25. &c *Heb.*8.10. &c. 2. In conditionall promises, though there may be partiall and temporary declinings in men from their said integritie (as there was eminently in *Peter*, one of those parties to the promise, *Mat.* 19.28.) yet God performeth the promise to true believers, through and for Christs sake, *In whom all the promises are Yea and Amen*, and that alwaies, if it be a promise of the life which

[f] Promissiones itaque illæ Dei pro statu præsenti rerum intelligendæ sunt. Quamobrem cum Dei promissiones audimus sic oportet cogitare: vel conditionem aliquâ conjunctam habent vel absolutè ponuntur: Dein, vel in hoc tantum tempus valent vel in posterũ sunt implendæ P. Martyr loc. com. cl. ff. 3. ca. 13. Sect. 6. mis-cited by him, cap. 12. 2 Cor. 1.20.

which is to come: and often, if it be a promiſe of the life that now is, namely, when it is good for them, according to thoſe promiſes, *Pſa.*84.11. *Rom.*8.28. 1 *Cor.*3.21. And if there be a performance by God, certainly there was an intention in him of that performance, notwithſtanding ſuch declining, *For he worketh all things after the counſel of his own will.* And for this you might have hearkned to *P. Martyr* your own Authour, in the place whither he referreth you in the Section quoted by you, ſpeaking thus. *But becauſe the conditions of legall promiſes could not be performed by men, God out of his own mercy hath ſubſtituted Evangelicall promiſes in their place, which though they have conditions annexed, yet they are held out gratis.* And a little further he ſaith, *The Evangelicall promiſe may ſtand good without thoſe conditions.* How this is, he preſently after explains thus. *Therefore impoſſible conditions are annexed, that men warned of their infirmity, and fully underſtanding it, they may betake themſelves to Chriſt, of whom they being received into favour, and juſtification being obtained, they may obtain thoſe very promiſes, for as to them they of Legall are made Evangelicall* g.

g Sed cum illæ ab hominibus præſtari non potuiſſent, Deus ex ſua miſericordia ſubjecit promiſſiones Evangelicas illorum loco: quæ quamvis conditiones adjectas habent, tamen efferuntur gratis. Promiſſio Evangelica ſine illis conditionibus conſtare poteſt, idcirco enim conditiones impoſſibiles adjectæ ſunt, ut homines ſuæ infirmitatis admonerentur ea, que penitus intellecta, ſe conferant ad Chriſtum à quo recepti in gratiam, adepta jam juſtificatione, illa eadem promiſſa poſſent obtinere. Nam quod ad ipſos attinet, jam ex legalibus reddunter Evangelicæ. P. Marc. loc. com. Claſſ 3. c. 12. Sect. 4.

3. You reſt not in this miſ-alledging of Gods promiſes, (though in it you bewray audaciouſneſſe and unſoundneſſe enough) but you riſe higher in preſumption, making an odious compariſon, or rather equality between God and man, in promiſes and covenants, whereas the caſe of the covenanting of theſe two is far enough different; for if it were granted, that God in ſome of his conditionall promiſes intendeth no performanee nor obligation on his part, but upon condition of mans perſeverance, muſt there needs be therefore an equivalency or conformity throughout thereunto in mans Covenants with man? muſt they therefore be all of them ſo made or underſtood? or rather is there not of right a vaſt diſparity? God is no mans debtor, he is not bound to man, there is no right in the creature from God, he can claim nothing from him

him, otherwise then by promise; God may do what he will with his own, and all is his own. But with man it is not so, either towards God, or man, he stands in divers relations, and is tyed in many duties, even towards men, before he covenant or swear, unto which single tye, the bonds of Oaths and expresse and solemn Covenants are often in weighty matters added, for confirmation and greater security. And thus it is in the point in hand, there is Allegiance due without the interposition of an Oath, or any such engagement by particular persons; we are in a settled State, born Subjects, and both claim their immunity and protection and owe the duty of such without personall indenting, or oath taking; and this obedience is owing to Princes, or Magistrates without condition of Religion, or Justice on their part performed; the Scripture is clear for an irrespective (and in regard of the Rulers demeanor) absolute subjection: *Exod.* 20. 12. 21. 25. *Rom.* 13. 1, 2, &c. *Tit.* 3. 1. 1 *Pet.* 2. 13. 1 *Sam.* 24. 6, 7. 26. 9, 10, 11. *Jer.* 27. 12. 29. 7. *Matth.* 22. 21. And the Doctrine of orthodox Divines generally is, that obedience is due to the most degenerate, tyrannicall, and oppressive Magistrates [b]. When therefore this necessary and unconditionated duty (as to the parties behaviour) becomes the subject of an oath, or personall engagement, it is not capable of capitulations or conditions to be performed by the persons sworn to, upon which the obligation of the oath shall be dependent; to admit such qualifications, would frustrate the end of a promissory oath, which is to give assurance and security (and that the strongest men can give) to the party unto whom the oath is made, of what, either was before, or is then made due by promise; instead whereof the inserting of conditions of this nature in this case would make what was before clearly owing now more dubious and uncertain to the expectation of the proprietor: and would be apt to beget in the debtor a perswasion, (upon non-performance of conditions) of a discharge as well from the matter, as from the obligation of the Oath.

Alia enim ratio est obligationis ubi debitum fundatur imprompsione, ubi vero promissio fundatur in debito longè alio. D. Sand de juram prælect. 6. Sect. 9.

[b] Cal. Instit. l. 4. c. 20. Sect 24 25. &c. P. Mart loc. com. class. 4 ca. 20. Sect. 12, 18 19. Alsted. Theol. cas. cap. 17. Reg. 8, num. 9. Schar. Symph. 5. epoc. Quæst. 44. & 45. cur. Perk. cas. consci B 3. cha. 6. Sect. 1.

4. Of Humane Covenants, or promissory oaths, whereof the subject or matter is arbitrary, and we are not otherwise bound to them by Covenant, or Oath, there are several sorts, some are absolute, having no expresse condition annexed, but

[i] Vide Alsted. Theol cas c. 5. Reg. 2. num. 3.

but are simply undertaken, saving that those generall and constant provisoes of every promise or oath which need not expressing, are to be understood therein, *viz*: that the thing when it comes to be performed be lawfull and possible, and notwithstanding the understanding of which the obligation is absolute. As for instance, such was that promise and oath of *Joseph* to his father *Jacob*, *Gen.* 47. 29. 30, 31, &c. and that of the children of Israel to each other, *Judg.* 21. 5. And that of *Jonathan* to *David*, 1 *Sam.* 10. 12, 13 Others again are conditionall, wherein something future, that is contingent, or depending upon mans will is particularly, and expresly comprised as a qualification of the matter to be performed, the failing of which is a discharge of the person engaging from the promise or oath. Such was that of the servant to *Abraham*, *Gen.* 24. 2. 3. 4. 8. 9. And that of the Spies to *Rahab*, *Josh.* 2. 12. to 21. Now then for Mr. *G.* to say generally of all oaths and promises whatsoever, whether they be of things in their own nature necessary, or of things arbitrary; whether they be absolute, or conditionall; and to say specially of all promises and oaths of Allegiance, or subjection, and particularly of these oaths in question, that they are conditionall, and binde no longer, nor any otherwise then whilest, and as the partie covenanted with, or sworn to, behaves himselfe as he did at the time of covenanting, is both in it self, and by what is here said, as also by the ordinary practise of men in Indentures, and oaths apparently inconsistent, and absurd; and to infer such an universall loosening of men from Oaths and Covenants, of what nature soever, upon the parties miscarriage to whom the engagement is made, from the conditionality of some divine promise, is (besides the impietie of it above denoted) an insupportable *non sequitur*, and by Mr. *G.* sophistry never to be maintained; yet this is all the Logick of this Argument.

Having thus (I hope) sufficiently taken away the exceptions of this Author against the force of the Oath of Allegiance I leave him straining and travailing about that stone of *Sisiphus*, (to wit, the guilt of Royall blood) which he labours to roul away in that his book, and proceed to another.

The next I meet with that strikes at the obligation of this

Oath

Oath, is one that asserteth himself to be of those whom he that I had last to do with, professeth himself a Champion against, that is, the Presbyterian part, but in this (as far as my ken will reach) he is alone for them: I mean the Author of *The lawfulnesse of obeying the present Government*, who in his 11. and 12. pages pleadeth against it with the Reasons which follow, being here set down by parcels, with my Answer to them so distinguisht.

1. *It were good* (saith he first) *to consider, whether there be any clause in any Oath or Covenant, which in a fair and common sense forbids obedience to the Commands of the present Government and Authority, much lesse when no other can be had, and so the Common-wealth must go to ruine.*

1. The many clauses of severall Oaths, and of the Covenant and Protestation, which strictly forbid such obedience, I have urged [Chap. 2.] whither I refer him.

2. But by his last sentence recited [*much lesse when no other*, &c.] together with his marginall quotation [of a Popish Schoolman or Casuist telling us, *When a thing sworn is too difficult, or he that swore is by the change of abilities or estate rendred lesse apt to perform: or lastly, when the thing sworn is an hindrance to the swearer from consulting the publick good, then there is a lawfull cause of dispensing in the Oath*] he seems as if he would insinuate a cessation of the Oath in our case, unto which I say.

1. Take dispensation, in the usuall Popish acception, and all power of dispensing in Oaths and Vows, in whomsoever it be supposed to be, is denyed with one consent, (as far as I have observed, or ever heard) by Protestant professors: and it is a meer popish doctrine, and papall arrogation exploded from amongst us. [k] And this Oath hath it self precluded and cut off all use of this shift of a dispensation in these words. *I do beleeve, and in conscience am resolved, that neither the Pope, nor any other person whatsoever, hath power to absolve me of this Oath, or any part thereof.* And this I the rather note, upon occasion of this Authors quoting a Doctor of the Papacy for the dispensabilitie of an Oath, in regard that some of late (if I mistake not) have taken upon them to discharge people from this Oath, or (which is all one) from the Allegiance therein sworn to. Unto which act I shall onely speak thus much, either they assume

[k] Vide D. Sander de Juram. oblig. præl. 7. Sect. 3. & 4. They say, *In omni voto, aut juramento subintelligi debere illam conditionem si Domino Papæ placuerit*

power to do this as the party to whom the Oath is taken, or as a ſuperior, by the analogie of that Law, *Numb*:30.3,4. But, 1. they cannot do it as the party ſworn to in that Oath, for they are not that party in the Oath, the King, and his Heires, and Succeſſors are the onely perſons to whom, and in whoſe behalfe the Oath is taken, and conſequently they onely that can releaſe from it as parties; nay they are the party ſwearing, and therefore far from a capacity of diſcharging others from that Oath, as preſently I ſhall ſhew. 2. Neither can they do it as a ſuperior by the equity of that Law, *Numb*: 30. For, 1. their lawfull ſuperiority in the caſe they now ſtand, is the matter under queſtion. 2. The power of a ſuperior to undo the Oath, or bond of the inferior, prevailes only in thoſe matters wherein the party is under the power of the ſuperior, and not in other matters, which are without the extent of the ſuperiors authority [1]. Now this Oath concerns a duty owing to another, which they that interpoſe to diſcharge from it have no right to diſpoſe of. 3. But however the ſuperior can onely by the Law cited, or any other right come in to make void the Oath of the inferior, which was taken without his knowledg and conſent, and that alſo he may only do in the day that he hears of it; but if he either allow the making of it, or declare not againſt it preſently, when he comes to know of it, he hath no power thenceforth to recall it, as is clear by the Text. Now the Oath of Allegiance was ſo far from being diſallowed, or declared againſt as ſoon as it was known, that it was inacted and injoyned by both Houſes of Parliament, and moreover it was conſtantly to be taken by all the Members of the Lower Houſe at their entrance into that Houſe; ſo that beſides their incompetency to diſcharge from the Oath who have aſſented to it; Let any man ſhew how they who are parties to the oath, and have themſelves taken it can diſanull it; the obliged parties diſanuling is a ſtrain above Papall diſpenſation.

[1] Vide D. Sander. de Juram. oblig. præl. 5. Sect. 5. & præl. 7. Sect. 6. *Animadvertendum tamen eſt penes hos non eſſe facultatem reſcindendi quodlibet juſjurandum ſubditorum; ſed illud dumtaxat, cujus materia eſt eorum poteſtati ſubjecta.* Alted Theol. Cal. cap 15 Regn. num 16

2. But to ſpeak to theſe cautes of diſpenſing with an Oath according to the Caſuiſts Divinity, which the Author applyeth to the caſe in hand. *When the thing ſworn is too difficult, or the ſwearer is by the change of ability, or eſtate, rendred leſſe apt to perform.* If by this difficulty of the thing, and unaptneſſe of the perſon ſworn, he means the thing is become impoſſible, and

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the partie utterly unable to observe it. All reasonable men wil grant so far as the impossibility lyes, and so long as it continues the Oath binds not, but this is not to our Authors purpose, for to cease from an act, that is, from obedience to the present Government, can never be impossible m. But if he intend by difficulty and unaptnesse, that the thing sworn to will bring hard tearms upon the swearer, or breed him temporall losse, and trouble, this is no cause to infringe the tye of an Oath, or give a discharge from it; He that hath sworn to his own hurt, must not therefore change from it: *Psal.* 15. 4.

m *Qui facit quod in se fuit ut adimpleret quod promiserat juramenti fidem exolvit.* D Sanders de juram oblig. prælect. 2. Sect 10. *Obligatio tollitur quoad id solum quod est factu impossibile quoad reliquum vero manet, & qui non potest omne quod debet, debet tamen omne quod potest.* Id. Sect. 12 *Est regula juris rei impossibilis nulla est obligatio.*

2. *When the thing sworn is an impediment to the swearer from consulting the publick good.*

1. If the thing sworn should become privative of, or opposite to, the publick good, or well being of the Nation in its own nature, & necessarily, it were unlawfull, and consequently the oath would be void; for to a sinfull thing there can be no obligation. But if it be onely of that nature which they call impeditive of a greater good, that is, if it stand in the way (not of the good of the Kingdom simply, and absolutely respected, but onely) of some higher degree of good supposed to be attainable; this consideration will not bear that weight, as to frustrate an oath. As for example, when a people that hath sworn obedience to a lawfull form of Government, which yet is not absolutely the best, as suppose to a Democracy, or Aristocracy, or that hath sworn obedience to a lawfull Prince, who yet is not simply the ablest that can be found for regall parts and qualifications, such may not take themselves discharged from their Oath, because there may be a better modell of Government, or a better qualified person to make a Prince found out, and for that cause cast off their present Government and King, and set up another because comparatively better. It was doubtlesse better for the people of Israel, that the Gibeonites had been destroyed, as the rest of the Canaanites were (if there had been no oath to the contrary) then that they were spared (besides that the sparing of them was against an expresse positive law: *Deut.* 20. 16.) and so the congregation judged, and therefore grudged at the sparing of them: yet in that case the Oath for sparing them stood inviolable. *Josh.* 9. 16. 18, 19. 2 *Sam.* 21. 1, 2, &c. It was in like

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sort for the Kingdoms greater good, that *Zedekiah* and his people should be free from *Nebuchadnezzars* subjection, yet that was not a dissolution of that Kings Covenant and Oath, *Ezek.* 17. 12, 13, &c. 2. It will at no hand be granted, that to withhold obedience from a usurped Power is in it self impeditive of the publick good at all, I know inconveniencies are by this Author urged to follow, if such a Power be not obeyed; as that, *Else all Authority must fall to the ground, and so confusion, (which is worse then titular tyrannie) be admitted.* But all Authority hangs not upon the back of Usurpation, this may come down shortly again, and that recover it self, and stand upright. Present quietnesse and security are like to be but in a sickly state, obey, or obey not, and for justice, as there is none where every man is left to himself, so there is usually little to be had from the hands of an unjustly gotten Power; Dominion being wont to be worn as it was come by n. An *Issachar*-like bowing down under the Common-wealths oppressions is not for publick good (neither were we told thus when the Parliament began to stand up, and awaken the people to shake off Expilation and oppression) the Orator will tell us, *Servitude is the worst of Evils, and to be repelled at the charge not onely of war, but death* o. Nay Religion will dictate to us in the words of the wisest earthly King, *That righteousnesse exalteth a Nation*; and, *The throne is established by righteousnesse.* Under Usurpation then we can expect no settlement; and to submit to it, is to help to fasten that which is certain to fall, and to fall with the greater confraction, by how much it is more favoured. Commotion and tumultuousnesse is sure (in reason) to follow violent domination. Let Israels many and turbulent changes of their Kings (after their departure from the house of *David*) be a president for it, of whose kings, for their speedy and fatall ends, it may be said, as it was of many of the Romane *Cæsars*, that they rather seemed to be kings in a Scene, or personated on the Stage then reall Authorities. The standing off from obedience is but like to speed the Commotions, and make them easier. To perswade men to couch down under Usurpation, when it is gotten up to save troubles, is as if a man that is got into the briars should stick therein, because he may rake himself in offering to get out; or he that hath a festered sore, or grown disease in his

n *Nec quisquã imperium flagitio quæsitum bonis artibus exercuit.* Tacit.

o *Et nomen pacis dulce est, & ipsa res salutaris, sed inter pacem & servitutem plurimum interest; pax est tranquilla libertas: servitus malorum omnium postremum, non modo bello sed morte etiam repellendum.* Cicero in M. Anton. Philip. 2.

Prov. 14. 34. 16. 12.

his body, should let it alone, and go on, because it will stir the humours, and cost him some pain to be cured.

2. The same Author proceeds, *And whether it*, (to wit, any clause in any Oath or Covenant (*forbids obedience to the present Authority, more then to Laws that have been formerly enacted, by those which came into Authority meerly by power.* 1. You have not yet produced any former Princes that had any hand in the making of a Law, that came into the Regall Authority meerly by power; for although some of them got possession by the Sword, yet (to omit the alledging of other title) they were confirmed, by the Kingdoms consent in Parliament, before they concurred in Enacting Laws for the Kingdom. 2. The Laws you reflect on were not meerly made by those Princes whom you pretend to have come in meerly by power, but were constituted by Parliamentary Enacting; And for any former Parliaments coming into the Authority meerly by force, you neither do nor can alledge any thing.

3. He urgeth further. *If it be said, that in the Oath of Allegiance, allegiance is sworn to the King, his heirs and successors, if his heirs be not his successors, how doth that Oath binde? Either the word successors must be superfluous, or it must bind to successors as well as to heirs; and if it binde not to a successor as well as to an heir, how can it binde to an heir that is not a successor? And if you will know the common and usuall sense (which should be the meaning of an Oath) of the word Successors, you need not so much ask of Lawyers and learned persons, as of men of ordinary knowledg, and demand of them who was the successor of* William *the Conquerour, and see whether they will not say* W: Rufus, *and who succeeded* Richard *the* 3d: *and whether they will not say* Hen: *the* 7th: *and yet neither of them was heire: so in ordinary exception the word Successor is taken for him that actually succeeds in Government, and not for him that is actually excluded.*

This Author in these lines raiseth much dust, that it may serve him for a double end: 1. To obscure the genuine sense of this clause of the Oath, that it may not seem to make against him, as indeed it doth; and then to detort and wrest it, to the advantage of his Usurpers interest. 2. He would cast a mist upo. the words of the Oath, to overcloud its true sense, and this he attempts in the fore-cited Discourse untill you come to this mark: he endeavours it by placing an ambi-

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guity in the word [Succeſſors], and ſetting it at odds with the word [Heirs], whereas this clauſe of the Oath is clear enough in it ſelf, and far enough from the uſe he would make of it; and firm enough to the ſenſe which he oppoſeth. Which that I may evince, I deſire the Reader to obſerve theſe two things.

1. That the Oath intends by Heirs, and Succeſſors, the ſame perſons which may evidently appear, 1. By the manifeſt drift of the Oath, and intention of the Authority that preſcribed it, which is the continuance and aſſurance of the Crown (upon conceſſion of his then Majeſties juſt title) to his Heirs in ſucceſſion after him, and one another lineally, and the defence of them therein againſt all other corrivals or oppoſers; this I cannot ſee which way will be gainſayed; and being ſo, it will inforce us to grant the Oath, and Oath-giver, could not mean by ſucceſſors any other then heirs. 2. In that the words [*heirs and ſucceſſors*] are joyned by the copulative [*and*], whereas if they ſhould have intended different parties, the diſcretive [*or*] ſhould, in true ſyntaxis have been put betwixt them. 3. In that his heirs and ſucceſſors are immediately in the Oath denoted by the ſame pronounce [*them*], and again by the ſame poſſeſſive [*their*] in thoſe words, (*and him, and* [*them*] *will defend to the uttermoſt of my power, againſt all conſpiracies and attempts whatſoever, which ſhall be made againſt his or* [*their*] *perſons,* [*their*] *Crown or dignity*) but if they be not the ſame perſons, how come they to be thus particled together? eſpecially how can they immediately after his Majeſtie be inſtituted to the ſame Allegiance, and defence therein in relation to the ſame Crown and dignity; admit them divers, and the Oath will import a contradiction: and will any man imagine, ſo irrationall a thing as that Authority hath ſo long impoſed, and the Kingdome, eſpecially the moſt intelligent perſons in it, have univerſally taken an Oath ſo irreconcileable to it ſelf. 4. The law of the Land (unto which this Oath muſt needs be yeelded to be conſonant) ordains his Heirs to be his Succeſſors.

2. That the Oath underſtands by Succeſſors, thoſe onely that are ſo *de jure*, and not any others, that contrary to right may intrude into the royall Seat, and injuriouſly make themſelves ſucceſſors onely *de facto*. For, 1. In the Oath we ſwear Allegiance, and defence to Succeſſors; now what man of con-

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ſcience would ever impoſe, or take an Oath of this nature to any (but in his intention) a juſt party, for to ſuch a one alone could he ſwear in righteouſneſſe according to *Jer.*4.2. 2. The Oath appropriates the Crown and dignity to Succeſſors, as theirs, in theſe words [*their Crown and dignity*] now theirs, and their right are all one. 3. The Oaths of Allegiance, and Supremacy muſt needs accord, and this may be the beſt Explanatorie of that: now this, *viz*: the Oath of Supremacy prefixeth the word [*lawfull*] to Succeſſors, and confineth our allegiance to his lawfull Succeſſors in theſe words, The Kings highneſſe, his Heirs, and lawfull Succeſſors: which epithite will not permit the word Succeſſors, either in that or in the Oath of Allegiance (unleſſe you will unreaſonably make them jarring) to be carried to any ſucceſſor but him that is ſuch of right. And this reaſon will alſo irrefragably confirm the former Propoſition, *viz*: that the Oath intends by Heirs and Succeſſors, the ſame perſons, for who are his lawful Succeſſors? the Law will tell you, his Heirs.

By theſe Propoſitions (ſufficiently cleared I hope) we may underſtand how the Oath (in that clauſe) binds, and that, 1. There is no ſuperfluitie in the word *Succeſſors*; for an Identity in ſenſe of divers words is no vain Tautologie, many words ſignifying the ſame thing being ordinarily uſed (and eſpecially in Oaths, and ſuch like punctuall forms, and particularly in the Oaths of Allegiance, and Supremacy in divers other clauſes) for explication, and ſignificancies ſake. And though heirs and ſucceſſors in the clauſe in hand meane the ſame perſons, yet it may be in a divers conſideration, as thus: They are Heirs in his Majeſties life time, and Succeſſors at his death reſpectively. 2. That the Oath binds neither to his Heirs, nor Succeſſors disjunctively, or the one taken from the other, but to both conjunctively, as one: and taking Succeſſors aright, that is, for lawfull ſucceſſors, we need not, cannot ſay that it binds either to a ſucceſſor that is not an heir, or to an heir that is not a ſucceſſor, *viz*: *de jure*, though perhaps he may be prevented, or delayed from actuall ſucceſſion, or rather poſſeſſion.

2. But this Author will have [Succeſſors] to ſignifie ſuch as are ſo *de facto*, and do actually ſucceed in Government; And

by this means this passage of the Oath shall make for the Usurper if he be in possession. I have said (I think) that which is enough to fore-stall this already, but let his Argument be heard, and receive a formall Answer; it is in effect thus.

The common and ordinary acception of the word Successor, means him that actually succeeds in Government; but the word Successor in this Oath, must be understood in the common and ordinary acception. Ergo, the word Successor in this Oath must mean him that actually succeeds in Government.

1. I answer to the major by denying it if taken universally, and if it be not, the Syllogisme is false: the major not being universall in the first figure. For although one common sense of the word Successor, is he that actually succeeds whether by right or wrong, yet that's not the sole usuall acception of the word, and this I shall evince the same way that he goes about to prove his acceptation to be the common one; and in so doing, confute also his proof of his major which is thus. *If you would know* (saith he) *the common sense of the word Successors, ask not so much Lawyers and learned persons, as men of ordinary knowledge, and demand of them who was* William *the Conquerours successor? they will say,* W: Rufus. *Who succeeded* Rich: *the* 3d: *they will say,* H: *the* 7th: *and yet neither of them was heir.* R. Although I yeeld not his rule to be the best (for it Successor be a tearme used in the Law (as it is in this Oath prescribed by Law) Lawyers, and learned men in the Law, were there any obscurity would be the fittest Interpreters of it; for it is a maxime, we must beleeve every one in his own facultie or Art p) yet I shall refer the matter to it so the question may be rightly propounded, and as the case in hand will allow. This Author propounds it fallaciously, and unapplicably to the present purpose, in that he demands *de præterito*, and so as the question onely interrogates of an actuall Successor [who was successor, or did succeed such a one?] and then the answer (whether made by men learned or unlearned) must needs bring in him that did succeed in fact. But let the question be put *de futuro*, and thus onely it is sutable to a promissory oath which respecteth the future time, and a thing to be done in it; and consequently to this Oath which is promissory, and runs *de futuro. I shall bear faith and true allegiance; and I will defend,* &c.

p *Credendum est cuilibet artifici in arte sua.*

and

and was taken of a ſucceſſor not that had ſucceeded, but that was to ſucceed, and it will be this, *who is to be his Majeſties ſucceſſor?* and then let even the man of ordinary knowledge anſwer it, and ſee whether he will not ſay, not every one that can catch it, but he that hath right to the Crown. And by this fitting of the queſtion to the current of the Oath, and the reſolution that the thing it ſelfe gives to it, as the proof of his Propoſition is taken off, ſo the contradictory to it is neceſſarily inferred, to wit, that the ſole, common and ordinary acception of the word Succeſſor, is not him that actually ſucceeds in Government. But if the word Succeſſor be capable of a divers acceptation, what obligation can there be to ſucceſſors in the Oath? R: Although Succeſſor in common uſage may be taken two wayes, to wit, either for a ſucceſſor in fact, or a ſucceſſor in right, yet in the Oath it can be taken but in the latter ſenſe. For, 1. It is a rule for the finding out of the ſenſe of an Oath agreed on among Caſuiſts, that in Oaths injoyned, or impoſed by others, we muſt conſtrue them in that ſenſe which is known, or may moſt probably be judged to be the preſcribers [q]; but his end in this Oath being the ſupport of his Crown in alineal ſucceſſion from himſelfe, according to his right ſettled by the Laws, his ſenſe intended by Succeſſors could onely be, they that are ſuch *de jure*, and the ſame that are his heirs. 2. To take the word in the other ſenſe, *viz:* for Succeſſors *de facto*, how unjuſtly ſoever poſſeſſed is inconſiſtent. 1. With the nature of an Oath, which muſt be taken in righteouſneſſe: *Jer.* 4. 2. that is, to oblige onely to that which is juſt. 2. With the word Heir, which being placed firſt *in* the Oath, muſt firſt be ſerved; and ſucceſſor can be onely underſtood in congruity with it. 3. With the Oath of Supremacy, which bindeth us to the lawfull Succeſſors. 4. With the Law of the Land, which appointeth ſucceſſion to the Heir. 5. With a poſſibility of keeping the Oath, for if heirs and ſucceſſors mean divers perſons, how can the Oath of Allegiance, and defence of the Regall dignity be obſerved towards both?

[q] *Vide D. Sanderſ. de juram. oblig. prælect. 6 Sect. 9. Anr. Aſheams Diſcourſe 2d. part. Chap 41.*

Having vindicated this paſſage of the Oath of Allegiance from this Authors diſtortion, I cannot let him paſſe without a brief animadverſion or two more. 1. Whileſt he contends about the ſenſe of Succeſſors, and would have it

understood of actuall succeeders, that it may favour the Usurpers, he forgets what is the object of that succession, *viz:* a Crown, and regall dignity, wherein by vertue of that Oath those Successors are to be defended: whereas they whose power he pleads for, (and in whose behalf he undertook to answer this clause, as not forbidding obedience to them) have not onely put by the rightfull Successor, but abolished the Crown and Regall dignity it self; unto what then would he have his mecenates to be successors? or how will he reconcile obedience to them with defence of the Crown, and royall dignity? 2. It is to be admired, that a person of so fair a character (as is given him by the worthy Authors of the *Religious Demurrer*) should begin this Section of his with a generall deliberative, (*It were good to consider, whether there be any clause in any Oath or Covenant, which forbids obedience to the Commands of the present Government,*) and yet take no notice of any thing in this or the other Oaths and Covenants, save of this clause onely in this Oath, which it seems he thought he could not onely loosen from obliging against him, but draw over to be accident to him, which how well he hath performed, I leave the Reader to consider. And I further admire how (seeing he accounteth *Oaths sacred bonds, and reverend obligements*) he feared not to use such enforcement to the clear letter of so tender and sacred a thing; for though any body can say a tyrant *sine titulo*, or a Usurper is a Successor *de facto* when he is in, yet that he is such a successor as the Oath intends, *viz:* one that we are sworn in allegiance to, and are bound by that Oath to defend to the uttermost of our power, &c. Having withall (probably at the same time) sworn in the Oath of Supremacy Allegiance to the lawfull Successors, and to our power to assist, and defend all jurisdictions, priviledges, &c. belonging to those Successors, is a grosser interpretation, then I hope he himself will own when he considers it, or any considering and conscientious men can receive. And I could wish he would consider, whether when he took the Oath he had this sense in his minde, or rather it be not newly excogitated upon the coming into question of these late transactions; and how neerly this practise entrencheth upon perjury r.

r *Alterum perjurii genus est ubi recte juraveris, non sincerè agere, sed novo aliquo excogitato commento juramenti vim (salvis tamen verbis) declinare & eludere.* D. Sanders de Jurain. oblig. prælect. 6. Sect 7.

4. But having said what he thinks fit to the clause, he will

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have one glance at the urgers of it. *Yet with all this quære may be added, while the Son is in the same posture in which the Father was, how comes this Oath at this time to stand up, and plead for disobedience in regard of the Son, that was asleep, and silent in regard of the Father?*

1. They that plead this Oath for disobedience, or rather denying obedience to the present Power in regard of the Sons right, did the same in regard of the Father; when it was apparent, that not a meer defence of Religion and Liberties, and a recovery of the Kings personall presence to the Parliament was the end of the war, but the Fathers death, and the Sons dis-inheriting, with the deflowering of the Crown, and over-turning of the Throne it self. Witnesse (amongst other testimonies) what the *London*, *Essex*, *Lancashire*, and *Banbury* Ministers have declared publickly in their respective writings, they are alike sworn to, have according to their power and vocations, stood for the Authority of both, and not allowed the disposition of either, or the usurpation of their power by others: they have prayed against, bewayled, stood astonied at, witnessed against the proceedings that have been against both of them: and to this day they lament that the clear Word of the Lord, held forth by their testimonies, hath not prevailed for the prevention or retractation of those direfull, and (the world throughout) scandalous courses.

2. The Son cannot yet be in the same posture his Father was in, whilest an overture or proposall for satisfaction hath not once been made to him, wherein he is in the view of the Kingdom more harshly and extreamly dealt with then even his Father was; and as his Fathers sufferings as to life were without president, so are his as to succession to the Crown.

Mr. *Ashram* (whom I had in hand before, Chap. 2.) hath divers strange, and unapproveable passages reflecting upon the Oaths under debate; which I shall cull out as I meet with them in severall places. In his 2d part, Chap. 8. Sect. 6. he layes down foure cases, wherein he saith, Subjects are freed from their sworn Allegiance. His three first, (*viz*: 1. If a Prince abandon. 2. If he alienate. 3. If *Nero*-like through mad furie or folly, he seek in an hostile way the destruction of his whole Kingdom) will I presume be taken not to concern our case in hand; the fourth possibly may be judged applicable to it,

which

which therefore I shall take notice of: and a brief animadversion will serve, he delivering it (as he doth other odde and unsound stuffe) with a pythagoricall magisteriousnesse, and without the assistance of reason to induce a perswasion to it in the Reader.

Fourthly, (saith he) *if the Prince have part of the supreame right, and the people the other part, then notwithstanding an Oath of Allegiance to him, he may be opposed if he invade the other part of Supreame right.* And a few lines after he affirms with *Grotius*, *He may lose his right by the Law of War.* And in the next Section he saith of all those foure Cases, and therefore of this, *That they shew how we are absolved in our own consciences from all Oath and Contract, when one party forfeits his conditions first.*

The defensive opposing of a Prince, invading his Compeers part by the party invaded where the Supreame right is so shared, (supposing the Oath of Allegiance to be cautioned according to that sharing) I shall not dispute, it being beside the present question; but his losing his right by the Law of War; and the Subjects absolution from Oath upon that his supposed forfeiture of conditions, I shall a little call into question.

1. He tels us (if we will take it upon his word) if the Prince invade the others right, he may lose his right by the Law of War. What the Law of War means (if diverse, or varying from Gods, and other humane Laws) I understand not, nor is it materiall; in discerning into the permanency, or cessation of right, and of an oath concerning it, we are to have recourse to the Law of God, and Nature; and if by these the Princes title, and Subjects oath remain firm, notwithstanding his invading the peoples right, the law of war like *Alexanders* Sword may violently cut in sunder but it cannot unloose either the single tye of right, or the superadded of an oath. How should this forfeiture come? if any wayes, by way of satisfaction for the trespasse upon the others right. But theologicall justice appoints not, that where one invadeth anothers right, the Invaders right should thereupon be cancelled; and that it may be lawfull for the invaded, upon that injury received, to invest himself therewith, and finally to alienate & dispossesse him of it. A liberty of defence it permitteth to the Invaded in relation to his own right, and a prosecution of the Invader unto his

his full satisfaction for the wrong inferred by him, and for that end (if there be no other meanes but warre left to effect it) the invaded (if he have power of war) may cease the Invaders right unto a just recovery or restitution of his own; but that being compassed, and proportionable satisfaction for the trespasse being given or gained, the Invaded party must sit down therewith, and not extend his line over all his late Invaders right. Every transgression towards man cals for satisfaction; and whoso doth wrong, is bound to make reparation; and his right is responsible, or obnoxious so far: but it is more then *summum jus* to carry this compensation to a totall and prepetuall translation of the Injurers possession to the Injured: totall confiscation is too high a penalty to be set upon every encroachment. Look into the laws and rules of satisfaction in Scripture, as *Exod.* 22.1,2, &c. *Levit.* 6.4,5. 2 *Sam.* 12.6. *Luke* 19.8. and it will appear the deepest amounts but to a foure fold restitution of the damage. Nay look into that order (which comes home to our Case) concerning the Princes of Israel, who having formerly used oppression, violence, spoil, and exaction towards the people of God, are not therfore adjudged to be deprived of their whole Inheritance (Office, and all) but are onely reduced to their own portion: *Ezek.* 45.7,8,9. But because this Gentleman flies to the Law of War for this his extreame dealing with Princes, hear what a learned Judge and profound Statesman delivers, in the case, in relation to that very rule. It is the Lord *Verulam*, who (insisting on the justnesse of a warre on the King of *Englands* part with *Spaine*, for the recovery of the *Palatinate*, although the *Palsgrave* in whose behalf that warre should be commenced, should be accounted to have made an unjust warre in *Bohemia*, by meanes whereof he came to lose the *Palatinate*) resolves thus: *An offensive warre is made, which is unjust in the Aggressour, the prosecution, and race of the warre carrieth the Defendant to assail, and invade the ancient and inhabitate patrimonies of the first aggressor; which is now turned Defendant, shall he sit down, and not put himself in defence? or, if he be dispossest, shall he not make a warre for the recovery? No man is so poore of judgement as will affirm it.* This resolution he confirms with many instances worthy to be perused in the Author; and in the end with this Reason: *Warres are vindicative; revenges, reparations;*

Considerations touching warre with Spaine, written by the right honourable *Francis* Lord Verulam pag. 3,4,5,6.

but revenges are not infinite, but according to the measure of the first wrong or damage. And within a few lines after he saith of the case he is arguing: *It is the more clear on our part, because the possession of Bohemia is settled with the Emperour.* For, though it be true, that Non datur compensatio injuriarum, *yet were there somewhat more colour to detain the Palatinate, as in the nature of a Recovery in value, or compensation, if Bohemia had been lost, or were still the stage of War.* According to the rule of Justice then, yea even that of War, the peoples right being recovered, and satisfaction given or tendered for the securing of it for future, the late invasive Prince should injoy his right again, and the oath that was given for the securing of it stands in force, and obligeth to it. And this may be further cleared, in that the Solemne League and Covenant was prescribed, and taken when the King was judged to be in the actuall invasion of the peoples rights; when the people could not be reasonably required to swear the said Covenant in behalf of the Kings right, if such an invasion did forfeit it, and absolve the Subjects from their oaths to him; and if they did then swear, they cannot afterward plead an absolution from their Oaths by vertue of that invasion. And if the late Kings actions could be a forfeiture of all rights, and dissolution of all Oaths as to himself (which I cannot yeeld) yet how can either of them be said to be disannulled in relation to his Heir, upon whom the right legally descends, and unto whose title the Oaths were sworn. If it be said, he was partaker in the same actions, the *Religious Demurrer* will tell you, that the right and title to the Crown upon his Fathers death, doth quit him from all stain by the Laws of the Land.

2 part. pag. 8.

2ly, Wheras he would infer this absolution from all oaths, *by the Princes forfeiture of his Conditions first.* What Conditions doth he mean? 1. If he understand any conditions to be in the Subjects Oaths which are to be fulfilled by the Prince, upon which tearms the Subjects Oaths shall binde, he is besides the book; the Oaths of the people put no conditions upon the Prince, but are all absolute and irrespective, and run without ifs, or and's; in like manner as the obligation of Subjects allegiance to their Soveraigne is irrespective according to Divine Institution, as I have before (in this Chap.) proved. If

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this Authour fancy any ſuch conditions in the peoples Oaths, let him ſhew where they lie, and what they are. 2. If he mean conditions in the Kings Oaths of Government, they are alſo unconditioned, or not dependent on terms to be kept on the Subjects part: and, as the Subjects miſcarriage is not a releaſement of the King from his Oath of Government, ſo the Kings failing is no diſcharge of the Subject from his Oath: the validity or obligation of either, cannot be ſaid to hang on the performance of the other; unleſſe it could be proved that each part ſwore with reſpect to the others obſervation of his duty and Oath, which neither the tenour of the Oaths, nor the ſubject matter of them will permit to be granted; nor hath this or any other Authour that I have ſeen, ſaid any thing to prove that.

3. If by conditions he mean the capitulations which the Kingdom may be ſuppoſed to have made with him at his Inſtallment in the Throne, upon the keeping, or breaking whereof he ſhould enjoy, or loſe his dignity; there are no ſuch capitulations made either with him perſonally, or with any of his predeceſſors to be alledged; they are inconſiſtent with the Supream Power entruſted with him. The truth is, it is a weak errour, though ſomewhat apt to poſſeſſe the mindes of unconſidering men, that in thoſe eſtates of life ordained of God for the help of man, wherein there is a mutuall relation, and anſwerable offices to be performed (as of Magiſtrate and Subject; parent and childe, husband and wife, Maſter and ſervant) where there is a departure from duty on the one ſide, there is a ceſſation of the debt of duty on the other. If this were ſo, it were a frivolous thing for men, ſubject to corruption, to contract any relations; and there would be no place left for the exerciſe of gentleneſſe, patience, charity, betwixt relatives, nor for the inferiours paſſive obedience in caſe of inno-

At ſi duo homines mutuo ſe obligent promiſſis diverſi generis, aut non eodem tempore, aut aliàs citra mutuum reſpectum: violata ab uno fides non liberat alterum obligatione; ſed uterque tenetur id ſervare quod ipſe juravit, etiamſi alter quod ſuarum erat partium non effecerit; exempli gratia, Rex aliquis ſimpliciter, & citra reſpectum ad fidelitatem ſubditorum jurat ſe regnum adminiſtratum juſtè & ſecundum leges: ſubditi alio tempore ſimpliciter & citra reſpectum ad Principis officium, jurant ſe ei debitam fidelitatem, & obedientiam præſtituros, utrique obligantur quod ſui eſt officij fideliter facere, et ſi defecerit altera pars a ſuo officio: ita ut neque Rex ſolutus ſit a ſuo juramento, ſi ſubditi debitum obſequium non præſtiterint; nec ſubditi ſuo, ſi Rex a juſtitiæ tramite deflexerit. D. Sanderſ. de Jurament. oblig. prælect. 4. Sect. 8.

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cency; but this is directly contradicted by that of the Apostle *Peter*, 1 *Pet.* 2.18.19,20. and those rules of the Apostles, *Rom.* 12.17. 1 *Thes.* 5.15. 1 *Pet.* 3.9. There are indeed some particular cases wherein the beneficiall duty of those relations is expirable, as is that of the married, in case of adultery; that of parents when their children are rebellious unreclaimably; that of Magistrates towards a Subject capitally offensive. But such particulars are warranted by Scripture: otherwise, wherein God hath not given a discharge, man may not. Now let any case wherein the Subject is dis-engaged by Divine warrant upon the Magistrates mis-administration, be produced and made out to extend to the point in hand, and it will be yeelded; But this is yet to be done. But I go on to another passage of the Authour.

In the same Chap. Sect. 7. he hath these words. *Now I shall endeavour to shew how a man may take an Oath from an unjust invading party, contrary to those Oaths which perhaps he took first from the just party, who possibly brake no conditions with him.* This his undertaking he prosecutes in Sect. 10. where he saith thus. *I conceive but two waies of taking such opposite Oaths.* To take an Oath in contradiction of a former Oath, is so high a matter, that the way to it had need to be very clear; and it can be no way allowable save one, that is, when the former Oath ceaseth to oblige; let us examine therefore whether his two waies fall under this one. 1. *When it is in a thing wherein a man may justly presume that the right party for a time releases him his former Oath or duty to him.* 1. The swearers presumption that the party sworn to, doth release him from his former Oath, unlesse he hath actually released him, and declared so to him, is unto him no dis-obligation; there can be no just presumption of such a releasment, without such an antecedent act of the same party; without it evidently appearing, it is but a groundlesse presumption, and highly impious: if it carry on to the taking of an opposite Oath, the consent of the party sworn to being not passed, or made known to him, this presumption is but the swearers own act, and his own act cannot discharge him; what is it that must be the ground of this presumption? The obliged persons perswasion of the equity or reasonablenesse of the thing? that's but his own judgement, the party

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he is bound to, may haply judge otherwiſe; however it is at the beſt but a probable, not a certain ground to conclude upon, that another doth a thing becauſe it is juſt, and that the party thereupon conſents to a releaſe is but his own fiction, till he hath ſo expreſt himſelf to him. This were an eaſie way of eſcaping out of any promiſſory oath to man, and would be ordinary if it would hold; for men would be apt to induce themſelves to beleeve an expediency and juſtneſſe of an abſolution from the party, when their Oaths pinch them in the performance; but this preſumption is but a ſuperficiall device.

2. The party ſworn (in the caſe in hand) ſtanding upon his title, preventeth this preſumption, and plainly declareth the contrary. 3. In the Solemn League and Covenant, the party ſworn to (as before hath been manifeſted) is not the King, but the people of all ranks within the three Kingdomes entring into the ſame Covenant: and how can they be preſumed to releaſe one, whileſt they hold themſelves bound by it? 4. The Proteſtation of the 5. of *May*, 1641. is a Vow; now Divines reſolve, that though an Oath may be cancelled by the party to whom it is made, yet a Vow no man can remit, becauſe it is made to God as the party, and no man hath to do in altering the right wherein we are bound to him. The things therefore concerning the Government included in that Vow, cannot ſo much as be pretended to be unlooſed by this way.

Dico relaxationem iſtam in juramentis, fœderibus, pactis, aliiſque contractibus humanis locũ habere, non item in votis: ratio diſcriminis eſt, quia vota Deo fiunt, ut parti; ab homine autem ea ſola relaxari fas eſt quæ homini facta ſunt. D. Sand. de juramento oblig. prælect. 7. Sect. 8.

2. His other way he thus laies down. *A man cannot by Oath be obliged further to any power, then to do his utmoſt, and the Oath is to be underſtood conditionally, if the action or paſſion may be for that Powers advantage. In an army each man being obliged by Oath to loſe his life for the Prince, rather then turn back, or avoid any danger; this army having done its utmoſt, is beaten; and now the Souldiers can do no more for their Prince then die; in theſe ſtraights therefore it is not repugnant to their Oath to aſk quarter, or a new life, and having taken it they are bound in a new and juſt obligation of fidelity to thoſe whom they were bound to kill few hours before. They who live under the full power of the unjuſt party, may be ſaid to take quarter, and to be in the ſame condition with the former: and ſo have the liberty to oblige themſelves to that which the Prince now cannot but expect from them, viz. to ſwear to thoſe under whoſe Power they*

live, that they will not attempt any thing againſt them. All that this amounts to is, it is præter, non contra prius juramentum; *and as the condition which is the ground of this promiſſory Oath, is ſuch, that it is impoſſible for a man in it to advance his parties cauſe, ſo it is impoſſible for him to be bound to an impoſſibility.* Here is much ſtrength of confidence in aſſerting, but none of reaſon to warrant and prove what is here intended to be concluded. That a Souldier or Subject being ſworn to ſerve his Prince to the utmoſt of his power, may ask and take quarter, and paſſively ſubmit to a captivating Enemy, when he is fully under his power, I ſhall not call into queſtion; his Oath binding him to do what he can for his Soveraign, forbids him not to yeeld when he can do no longer; and for him to ſuffer death, or harder uſage by conteſting with his enemy, when he lies at his mercy, as his Oath bindes not to it, ſo it is for his Princes diſadvantage, there being yet hope that his life may be reſerved, and his liberty recovered, for his Princes further ſervice according to his Oath, in regard whereof he is rather in that caſe bound to ask and take quarter, then bound out from it: but what of all this? will it thence follow, *That the Souldier or Subject thus brought under an adverſe party to his Prince, oweth fidelity, and may oblige himſelf by Oath to that party not to attempt againſt him?* If his Allegiance and Oath were expired, there were ſome probable way for it; but here is little ſaid, or can be ſaid for that. Let us particularly examine, what this man alledgeth.

1. He hath done what he could, and the Oath bound him to no more. *R.* He hath done what he could hitherto, and ſo far hath kept his Oath; but if the Oath was (as the Oaths in the caſe under debate are) not limited to that particular deſign or battel, wherein the Prince hath the worſe, and his ſworn followers are fallen into the unjuſt parties hands, but to endure whileſt life laſts, and the Prince hath any ſervice for him, he hath not done what poſſibly he may yet do, nor hath he ſatisfied his Oath, ſo that it can demand no more of him.

2. *He hath a new life given him of his conquering Enemy, and thence becomes bound to him.* This is but a rhetoricall flouriſh, or complement, and hath no Logick in it, his life is the ſame it was, and therefore the man is ſtill under the ſame obliga-

tion,

tion of his duty and Oath which he was before under. If this Authour can prove his life to be really another, I will grant an evacuation of all his former contracted obligations. And in truth although the cuſtome of Warre cals an Enemies ſparing of the life of a worſted perſon, Mercy, yet if that perſons cauſe were good, though he hath found bad ſucceſſe, he hath not forfeited his life to his prevailing Enemy, neither is he beholding or in debt to him for it, no more then a true man oweth his life to thoſe theeves that only rob him; or a weak man is indebted for his life to a ſtrong man, becauſe he kils him not. 3. *This is beſides, and not againſt the former Oath.* 1. If it be not againſt it, you are beſides your undertaking, and prevaricate it, for you promiſed to ſhew how a man might take an Oath contrary to his former Oaths. 2. But it is plainly againſt the former, for to ſwear to do the utmoſt that can be for the Prince, and to ſwear not to attempt any thing againſt that Princes Enemy which hath diſpoſſeſt him of his right, can be no other then contraries. 4. *It is impoſſible for him to be bound to an Impoſſibility,* and it is now impoſſible for him to advance his parties cauſe. That which is in it ſelf, or in its own nature impoſſible, an Oath cannot binde to; but that which is in it ſelf probable, and therefore promiſed under an Oath, may by accident, or by the interpoſition of ſome caſuall impediment become impoſſible: this is very ordinary, and this kinde of impoſſibility doth not diſſolve an Oath, but only ſuſpends it for the time, until the preſent impediment be removed: ſo that though the Oath binde not to the *hic* and *nunc* of the accidentall impoſſibility, yet it ſtands in force ſtill, and obligeth to the thing as it is in it ſelf poſſible, and may (the obſtacle being removed) be hereafter feaſible. 2. Whileſt it is impoſſible for him to advance his parties cauſe, it is a frivolous thing for him to ſwear that he will attempt nothing for his party againſt the Enemy, for ſo he only ſwears not to

Sed rei impoſſibilis ex accidente tantum aliquantum diverſa eſt ratio. Vt ſi quis juratus ſolvere centum infra menſem, quod non eſt per ſe impoſſibile, caſu aliquo inopino interim impediatur, ut non poſſit tantum pecuniæ ſummam tempore præfinito conficere: etſi non obligetur in foro conſcientiæ ad faciendum quod promiſit, ſcil. ad ſolvendum totum debitum debito tempore, quod jam redditum eſt ei impoſſibile; obligatur tamen ad faciendum quod in ſe eſt, viz. ad ſolvendum quantum poteſt, & quam cito poteſt. Ratio utriuſque eſt quia cum in hoc caſu ſola impoſſibilitas impediat obligationem, obligatio tollitur quoad id ſolum quod eſt factu impoſſible, quoad reliquum vero manet, & qui non poteſt omne quod debet, debet tamen omne quod poteſt. D. Sanderſ. de Jur. oblig. prælect. 2 Sect. 12.

attempt an impossibility; and when this impossibility ceaseth, the former Oath to his Prince taketh place: so that this objected impossibility can be no warrant for such a latter Oath.

Our Authour in his Chapt. 9. Sect. 3. thus opposeth the obligation of the Oaths: *God saith, By me Princes reign: the governing Powers which are, are of God. God hath declared that he will chastise, and change Princes and Governours; and when we see the changes and chastisements, we may be sure they are by Gods order, yea, though the invading or succeeding Governers be like* Jehu, Nebuchadnezzar, *or those who by cruelty shew us nothing but Gods Wrath. Wherefore it can be no lesse then sin in us, or treason against God, to swear we will never obey any but this or that Prince, or State, or any but of such a Family: for this depends on Gods Providence and Justice, which sets bounds to the duration of Governors and Governments.* 1. It is certain that all the Kings and Potentates of the Earth are set up and pulled down by God, and every change of Governours, even the advancement of those who are heavy scourges to the people, is in a sense by and from him; and it is as certain, that some Princes in some sense are not of God, as is clear enough, *Hos.* 8.4. We must therefore distinguish thus. 1. A thing is said to be of God, in that it was fore-seen and preordained of him before it came to passe, and falleth out by his providence and disposall. And thus every act or event is by him, whether it be right or wrong, agreeable or repugnant to his revealed will or Commandment, 2 *Chron.* 25.20. 2 *Sam.* 24.1. So are all thefts, robberies, oppressions, murthers, violent dispossessions and occupations. Thus even Antichrists power that is derived to him by the devil is yet given him of God, *Rev.* 13.5,16,17. And so was *Pilates* power to crucifie Christ: *Joh.* 19.10,11. 2. To be of God, importeth the thing to be enjoyned, warranted or approved by his word or revealed will; and thus *Gamaliel* useth the terms, when he speaks hypothetically of the Apostles preaching and working miracles, *If it be of God*, in opposition to that which is of men, although in the former acception nothing is of men, but it is of God also. *Act.* 5.38,39. Now to discern what is of God, so as to impose upon us, we must not go to his secret will or providence, many things come about to us that way which we are not bound to embrace and acquiesce in; but may, yea, ought to use remedy against

against, and ſtrive to avert or remove; ſuch as are tentations to ſinne, diſeaſes of the body, captivity, oppreſſion, diſhonour, defamation, and ſuch like. Theſe evils, albeit we are patiently and ſubmiſſively to bear them for the preſent, as they come from Gods correcting hand, when they are come to paſſe; yet we are allowed and required to ſeek the preventing of them when threatned, and the removall of them when befallen; Unjuſtly advanced Magiſtrates are of this nature; A paſſive ſubmiſſion under whom as a divine caſtigation, whilſt we can finde no redreſſe, is expedient: but an embracement of them (as thoſe that are autorized and warranted by God) active obedience to them, and maintenance or ſupport of them, (which is the matter in queſtion) cannot upon this ground be inferred as neceſſary, To do evill, becauſe is is in the power of our hand by providence, or to perſwade others, or our ſelves to ſit down under intolerable wrongs, becauſe they are come to paſſe that way, is an ungodly and fooliſh conſtruction of Divine Providence, and of a late invention in theſe every-way erring times.

2. This Authour in urging obedience upon this account, not only croſſeth Scripture and reaſon, but contradicteth himſelf in what he ſaith elſewhere: for the making good of this, I ſhall only preſent the Reader with his own words. p. 79. *God many times finding ſome Nations groſſely peccant, and obnoxious to his ſeverall juſtice, in ſtead of deſtroying, gives them up as a prey to another Crown; thus were the ſeven Nations; and afterwards Iſrael it ſelf was thus in the hands of* Nebuchadnezzar: *which particular caſe is not a generall argument, or conſequence (as ſome argue it) for the manner of Government, or latitude of ſubjection in all Kingdoms.* And p. 89. he ſpeaking of Antichriſts dominion, ſaith, *There is one kinde of Uſurpation which by no poſſeſſion or preſcription can ever become lawfull; and a Chriſtian can never ſubmit himſelf to it, without wounding his conſcience and faith.* And yet let this man ſay if this power of Antichriſt be not of God, and by his providence in the ſenſe wherein his Argument runnes. 3. Who ever ſaid, that men might ſwear they will never obey any but this or that Prince, State, or Family? or who ever knew it required, or done? All Oaths, and particularly thoſe of obedience, carry ſtill in them a caution of poſſibilitie; and when the

matter

matter becomes in it self impossible, the Oath ceaseth, and is void: We therefore swear to obey Princes and States, whilest it pleaseth God to continue them to us; and this tye a present interruption of Government (though to an Invaders full possession) cannot dissolve: the Oath and Allegiance of Israel contracted with *David*, 1 *Chron.* 11.4. continued till his death, though *Absalon* rose up against him, drew all Israel after himself, and drave him out of the Land: 2 *Sam.* 19.9. But when a Prince or Family is irrecoverably lost to a Kingdom, the Oath expireth.

Chap. V.

The Reasons brought for obedience to the Usurpers, answered.

THe next, and last part of my work, is to answer those Arguments that I have met with, which are brought for the obedience which I have disallowed in the 2d. and 3d. Chapters: the book entitled, *The lawfullnesse of obeying the present Government*, saith the most for such obedience of any that I know, it therefore I shall chiefly deal with.

1 *Argument.* First, his first and main Argument is taken from that of the Apostle, *Rom.* 13.1. &c. from this text his Argument set in frame is this: *If the Apostle commands submission and obedience, and that for conscience sake, unto those in his time that came unlawfully into their power and authority, then obedience to such may be now lawfull. But the Apostle commands submission and obedience, and that for conscience sake, unto those that in his time came unlawfully into their power and Authority. Ergo.* The major will not be stood upon. The minor is to be denied; And for his full confutation therein, and vindication of the Apostle in this text, I shall 1. by way of *Elenchus* make good the contradictory to this Proposition. 2. Answer what he brings for the maintenance of it.

1. Then I am to clear this contradictory to his minor, *viz. That the Apostle in commanding obedience to the higher powers, can only be understood of such as possesse their Authority lawfully, or have a just title and regular calling thereunto.* And this I shall undertake to do out of the Apostles own words, or by the characters he gives of the Powers he would have obeyed.

1. There

1. There is (saith the Apostle) no power but of God.

2. To be of God here, must import not meerly a permissive counsell, or providence, but a divine approbation, authorization and vocation; they are said to be of God thus, that come in by Gods way, or are called to their places as God hath appointed in his Word; and that, not the former only, but this stricter sense of being of God must be here taken, appears thus, 1. Otherwise the Apostle had said no more for Magistrates in this Character, then the Scripture saith of plagues, famines, and other judgements [a], yea, of the sins of men, which in the first and larger sense are said to be of God, 2 *Sam.*24 1. 2 *Chro.*25. 20. 2. A derivation of them from God in regard of providence meerly, could be no argument for obedience, non-resistance to them, and maintenance of them; for we are not to subject our selves to, support, and refrain from resisting a thing meerly upon this ground, because it comes by providence; then a forreign Enemy that invades us, or a robber must be submitted unto, and may not be resisted; the plague or other sicknesses in the body, nay the outward temptations to sin might not be prevented or removed, for all these come by providence. But the Apostle alledgeth *their being of God* here, as an argument for subjection to, non-resistance, and maintenance of them.

a Fanatici dicunt potestates omnes sic a Deo esse, sicut pestes, morbi, & pœnæ a Deo sunt. *Parem* in loc.

2. By *Powers* in this place, this Authour tels us, *he means not meerly power or authority abstracted from persons, but persons cloathed with that Authority.* Now that persons cloathed with Authority may be said to be of God, there must be not only Gods institution of the office, or Magistracy in the abstract, for the meer ordaining of the office, makes not this or that man a Magistrate more then another, but also his odering of the persons to the office, but they that are thus ordered of God (*viz.* not providentially alone, but by way of vocation, approbation, and authorization, as it is above proved, the sense of the words [*of God*] must import) to the Magistrates place, must needs be granted to be lawfully possest of it, or to have to it a just title. This universall negative therefore of the Apostle, *There is no power but of God*, must not be taken in the simply universall sense, as if there were no other power in the world but such, but as a restrained universall, to wit, *There is no lawfull power but of*

 God,

God: and so alone can I conceive it consistable with that of the Prophet, *They have set up Kings, but not by me; they have made Princes, and I knew it not.* These two sayings of the holy Ghost must needs be true, and therefore must not be contradictories; which they are not, if you take them uttered in a divers respect, the former of a lawfull, the latter of an illegall magistracy.

Hosea 8. 4.

2. The *powers* here are said *to be ordained of God*: and ver. 2. *to be the ordinance of God*; that is, not by his decree, or handy-work meerly, *as ungodly men are said to be ordained to condemnation*: and the being and posture of *heaven and earth are said to be Gods Ordinances*, but by his word or written sanction, a person in this acception is to be termed Gods Ordinance, that is, by divine rule put into a place, or state; those Magistrates then only can be said to be ordained of God and his Ordinance, that (for the substance at least) enter by the door that he hath made, or the means and manner he hath prescribed. The sons of *Aaron* in their priesthood, and the Levites in their ministery were Gods Ordinance, inasmuch as they were ordained according to Gods appointment. Whereas *Korah* and his company though they officiated as Priests, yet they were not so, because they wanted that ordination. A man and a woman are by Gods Ordinance husband and wife, who are espoused together according to divine rule, and not they who only perform the acts of such one to another. In like manner, not whosoever can get into the Seat of Authority by any means, are Gods ordained, but they who come in according to Gods prescript and regulation. *Absolom* and *Adonijah*, though they got into the Kingdom of *Israel*, were not Gods Ordinance; but *David* and *Solomon* whose places they usurped, were, these being put into the place by Gods direction.

Jude 4.
Jer. 33. 25.

Lev. 8.
Numb. 8.

3. *The power here may not be resisted under pain of damnation*: vers. 2. But 1. An usurped Power, or they that get men under their command by force without right, may be resisted, and subdued. *Abraham* and his confederates justly took up Arms, and by them rescued *Lot*, and the Sodomites from *Chederlaomer*, and his participants. The Judges and Tribes of Israel righteously warred against, and vanquished the Nations that successively obtained and exercised dominion over them, in

Gen. 14.

the

the book of *Judges*: so did *Samuel* and *Saul* against the Philistines, that were for a time their masters: 1 *Sam.* So did *David*, whilest he was king in Hebron, with the house of Judah, against *Ishbosheth*, *Abner*, and all Israel: so did *David* and his men against *Absolom* and the people that followed him: so did *Jehojadah* in the right of *Joash* against *Athalia*. Lastly, thus did the *Maccabees* against *Antiochus* and his race; Which examples I but mention, having urged the most of them before [b]. And indeed to imagine the Apostle here to tye men conscientiously, and under pain of damnation to obey, and sit down without any reluctancy under, yea, to maintain, assist, and fight for them, who do by force, without any right at all, usurp Authority over them, though they were Turks, theeves, Irish Rebels, Papists, or whoever, the worst of men, and cruellest of Tyrants, and though the sufferers should come to have strength in their hands to relieve themselves, is an imposition (I think) beyond the thoughts of any sober minde, and that which none, but they of the Anabaptisticall spirit will advisedly own, and them also we may rather finde saying then doing so; the proceedings of the Parliament, yea, of all parties on both sides in the late warre disclaim this doctrine; yea, the Army it self may be judge in this matter, who must either condemn this sense, or all their own warlike actions: this would make the Apostle not only to put an insupportable passivenesse upon people, but to discourage just Magistracy, if opposed, and grown weak, whereas his manifest scope is to uphold it. 2. They that come in by meer force, with expulsion of the just Magistrate, have apparently committed this crime of resisting the Power that is the Ordinance of God, and so have incurred the sentence of damnation or condemation (which may be understood of punishment by men) and its a strange conceit to think, that the Apostle doth here at once both condemn their act, and confirm their authority gotten by it, and that the same persons should by the same means be both the resisters that are ἀντιτασσόμενοι, or set in an opposite order to that Ordinance, and condemned for it, and the power and ordinance it self that is to be obeyed, and not resisted. 3. If they that come in by force against the just Magistrate are the resisters of the Power here to be submitted unto, then those that

2 Sam. 2. 8, 9. &c.

3. 1.

2 Sam. 18.

2 King. 11.

b Tyrannum absque titulo qui est invasor, quilibet privatus potest, debet, è medio tollere, neque enim ille Rex est, sed privata persona, Alsted Theol. Cas. ca. 17. Reg. 8.

 shall

shall obey those resisters in the full latitude of obedience here enjoyned (which comprehends assistance and maintenance of them) do become therein resisters of the said just Power also: so that obedience to the Usurpers is rather forbidden, then taught in this text.

4. The Power here to be obeyed, is *the Minister of God to thee, a revenger to execute wrath*, &c. v. 4 1. No man can be called a Minister of God, but he that is called of God to that service, wherein he is his Minister, not only the office must be authorized, but the person must be invested with it by God; there must be some act of God, either immediatly or mediatly put forth towards the person, or this relation to him of being his Minister cannot be founded; now whosoever is the subject of such a divine act or vocation, hath without controversie a just title to Magistracie. 2. He that is a Revenger to execute wrath under and for God (that is, not by providence only, as theeves, robbers, and forreign invaders are, but by place and calling) not for destruction, but for good, he must receive a warrant from God for it; vengeance is Gods alone, by property, so that none can take it in hand but by deputation from him; others whatever power they have to do it, are expresly prohibited to be avengers, immediatly before this text, chap. 12. 17. Now he that receives a warrant from God for it, is lawfully impowered.

But every one of the Characters affixed by the Apostle, to the Magistracy spoken of in this text, it must needs be evinced, *That the Apostle in commanding obedience to the higher Powers, can only be understood of such as possesse their Authority lawfully, or have a just title thereunto*; and this is the contradictory to his Minor, which I undertook to make good.

2. I come in the 2d. place to give Answer to what he urgeth for the proof of his Minor, which may be gathered up thus. *The Romane Emperors*, Claudius *and* Nero, *came unlawfully into their Power or Authority. But the Apostle commands submission and obedience to them. Ergo.*

In this Syllogism both his premises are peccant, and may be denyed. 1. For the minor the Apostle speaks in the generall of powers, without particular application to the Roman, or any other [c]; the carrying of them to the Roman Emperours

[c] Non de hoc vel illo principe loquitur, sed de ipsa re. Chrysost. apud Pareum in loc.

is

is the Authours own. If he ſhall ſay, he may ſafely argue a *theſi, ad hypotheſin*, or from the generall to the particular, 'tis true, if he hold to ſuch hypotheſes, or particulars as are contained under the theſis or generall: but it is not granted to him, that the Apoſtle in this text ſpeaks illimitedly, and without exception of all men, that by any means may get power into their hands; but on the contrary it is ſtood upon, that he intends his precept only of lawfully-called Magiſtrates (the which I have above proved) he cannot therefore include under the Apoſtles generall, them whom he ſuppoſeth to have unlawfully got into their power, this were *Tranſire à genere in genus*, or to argue *A dicto ſecundum quid ad dictum ſimpliciter*. Neither can he be allowed to argue after that manner here, ſeeing he hath begun his Argument *ab hypotheſi, ad theſin*, or from the particular to the generall, for this were to walk in a round, and to prove this by that, and that by this circularly. As for that which he hinteth on, as if he would prove the minor by it, *viz. this Epiſtle was written in the time of* Claudius *or* Nero, it hath no ſhadow of proof in it; for they were not the only Powers then in being; there were others even among the Romanes as well as they, himſelf nameth the Conſuls and Senate, as thoſe to whom the power of right belonged, and they were then exiſtent, and in ſome poſſeſſion and uſe of the power: although the Emperours ruled with them, and in ſome things over-ruled them, as they were haply in other things ruled by them[d]; there being a kinde of mixture of power, and alternateneſſe of prevalency betwixt them. Now that the Emperours were then in place (whereas others alſo were in power) is no more a proof that the Apoſtle commands obedience to *the* Emperours, then the being of *falſe* Apoſtles, and Miniſters among the Churches, when the Apoſtle wrote to Chriſtians *to obey and follow them that had the rule over them*, proves that he commanded them obedience to thoſe falſe Apoſtles and Miniſters.

2. The major Propoſition (*That the Emperours* Claudius *and* Nero *came unlawfully into their Authority*) muſt alſo be denyed: taking [*unlawfully*] in the ſenſe of the queſtion, or caſe in hand, that is, in regard of title: for, although the tumultuouſneſſe of the Souldiers, and the craft of the perſons intereſted,

d Quinetiam ſpeciem quandam libertatis induxit, conſervatis ſenatui & Magiſtratibus, & majeſtate priſtinâ & poteſtate: neque tam parvum quidquâ, neque tam magnum publici privatique negotii fuit, de quo non ad P. C. referretur, &c. Vide Sueton. Tiber. ca. 30, 31, 32. Heb. 13. 7, 17.

were ingredients in the manner of their entrance, yet they were not the basis of their claim, or ground-work of their title: but they had, or came to have, before this precept of the Apostle could intervene, sufficient challenge thereto, otherwise; we must therefore distinguish betwixt an errour, or unlawfulnesse in the way, or manner of a Princes coming in, or obtaining possession of the throne, and an unlawfullnesse in regard of title, or of that which is of the substance or essence of his calling to that place. The former is that which can only be objected against these two Emperours; the latter is the unlawfullnesse in the case, or question, *viz.* when the Rulers hold meerly by usurpation, or have no other colour of claim but force, or other intrusion: and to argue from the former to the latter, is plainly fallacious, being *A dicto secundum quid, ad dictum simpliciter.* But let us hear what unlawfullnesse the Authour urgeth against the Emperours, and see whether it be not short of that which is under debate, *multis parasangis.*

The Consuls and Senate (he saith) *anciently had the chief power of Government, these at the death of* C. Caligula *entred into a consultation how they might restore the Common-Wealth to her ancient freedom, which by the* Cæsars *had been taken from them:* Claudius *in the interim is proclaimed Emperour by the Souldiers, and takes it upon him:* Nero *his successor was also first saluted Emperour by the Souldiers:* Britanicus, *who was* Claudius *Son, being kept in by the cunning of* Nero's *Mother.*

Unto all this the Answer is easie. Notwithstanding all these disorderly proceedings, these two had a title (for substance) sound and good enough to the rule they bare: take for this a short narration out of History.

The Romane State was often changed, and received many forms of Government successively [e], the beast in the Apocalyps wherein the great Whore sitteth, is by the current of Expositors understood to be the City or State of *Rome*: and his seven heads are construed to be seven forms of Regiment that have been in it, *viz.* Kings, Consuls, Tribunes, Decemviri, Dictators, Emperours, and Popes [f]. If Antiquity must decide which of these Governments had the best title to be over the Romanes, it will give it to the *Cæsars*, for the kingly (from which that of Emperours essentially differs not) was the first in

e Tacit Annal. l. 1. c. 1.

f Brightman, Mede, Symonds, Napier. Forbs. on Apoc. 17.

in time among them [g]. If poſſeſſion muſt determine it, the Emperours were at this preſent in the Throne, and had been for a conſiderable time, for four of them had reigned in ſucceſſion to one another before *Claudius* came in. If the conſent and conſtitution of the people (which is the trueſt groundwork) muſt carry it, the Emperours alſo were ſupported with this title, both originally, as to the form of Policy, at the firſt ſetting up of Kings, in the infancy of this State, and perſonally at their reſpective comings in. By what means this conſent was gained from the people, it is not neceſſary to inſiſt, it were eaſie to prove, that if there were any unworthy carriage in it, it was as much at leaſt on the ſubmitters as on the *Cæſars* part. * *Julius Cæſar* (the firſt of them) had a concurrent agreement of the State which was (for ſubſtance) valid enough [h]; ſo had *Auguſtus* after him [i]; the ſame had *Tiberius* his next ſucceſſor [k]; *Caligula* the next to him had the cheerfulleſt and moſt affectionate aſſent that ever Prince had [l]. By this time the Government of the *Cæſars* had by theſe reiterated acts of conſent, eſtabliſhment from the people ſufficient to give it a juſt title, and free it from uſurpation; The next that followed was *Claudius*, who was left by *Tiberius* joint Heir with *Caligula* [m], but was put by for the time by the exceſſive love which the people bare unto *Caligula* [n]; after whoſe death, the Conſuls, Senate, and City Regiments talked indeed of ſtanding up for a publike liberty. But *Claudius* being ſaluted Emperour by ſome of the Watch, and the cry of the City Souldiers being at length that one ſhould have the rule; the Conſuls and Senate perceiving the Souldiers bent that way, and thereupon fearing a combuſtion, and ſuſpecting their own inability to make good their deſign, they being divided alſo among themſelves, and other competitors for the Empire beginning to ſtart up,

[g] Vrbem Romam a principio Reges habuere. Tacit. Annal. l. 1. c. 1.

* Vide Tacit. Annal. l. 1. c. 1, 2.

[h] Tum vero abſens Romæ Dictator creatus paciſq; & belli dominus? Cluver. Hiſtor. mundi. lib. 7. pag. 236. Vide Chronic. Carion. l. 2. pa. 180, 181. Muneribus, monumentis, congiariis, epulis multitudinem imperitam lenierat: ſuos præmiis, adverſarios clementiæ ſpecie devinxerat, conſuetudinem ſeviendi. Cicero in N. Anton. Philip. 10. Orat. 44.

[i] Cæſari quia arma ſumpſerat Reip. pro Pop. Romano imperium à Senatu datum, cum Conſularibus ornamentis. Cluveri Hiſtor. lib. 7. pag. 240.

[k] Sex. Pompeius, & Sex. Apuleius Coſſ. primum verba Tiberii Cæſaris juravere; apud quos Seius Strabo, & C. Turranius: mox Senatus miſeſque & populus. Tacit. Annal. l. 1. c. 2. Vide Sueton. in Tiber. c. 24.

[l] Sic imperium adeptus, populum Romanum, vel ut ita dicam, hominum genus voti compotem fecit, exoptatiſſimus Princeps, &c. Vide Sueton. in Caligula. c. 13, 14.

[m] Vide Sueton. in Tiber. c. 76.

[n] Vide eundem in Calig. c. 24.

and

and *Agrippa* the king of the Jews, strongly counselling and perswading them to it, they withered and shrunk in with their undertaking, and at last accepted of *Claudius* [o]; as for *Nero* who came in next, *Britannicus* indeed was nearer to the Empire in succession then he, but *Agrippina* mother to *Nero* had prevailed with her husband *Claudius* to adopt *Nero*, and prefer him before his own Son *Britannicus*; which he did with the Senates consent [p]: *Nero* accordingly succeeded him, and had the consent of the State at his inauguration, without any reluctancy [q].

o Verum postero die Senatu segniore in exequendis conatibus, per tædium, ac dissentionem diversa censentium, & multitudine quæ circumstabat unum rectorem jam, & nominatim exposcente, armatos pro concione jurare in nomen suum passus est. Sueton. in Claud. c. 10. Ad firmandum ejus imperium non parum contulit Agrippa Rex Judæorum, autor & Claudio retinendæ dignitatis, & Senatui non offendendi veteranos. Itaque Senatu segniore in exequendis conatibus, & milite urbano Prætorianis se aggregante, in Claudii nomen juratum est. Cluver. Hist. lib. 8 pag. 267. p Hoc exemplo optimates deserti in magno metu esse cæperunt, ac deinceps videntes sibi adversationem tutam non esse, secuti milites ad Claudium transierunt. Claudius suscepit in castris advenientem Senatum, & indulgenti honore complexus, egressus cum patribus confestim obtulit Deo hostias, ut mos est pro imperio supplicari. Joseph. de bello Iudaic. lib. 2. c. 10. Vide eundem Antiqu. Iudaic. lib. 19 cap. 3. q Sententiam militum secuta patrum consulta, nec dubitatarum est apud provincias. Tacit. Annal. lib. 12, c. 14.

It appears by all this, that the *Cæsars*, and particularly *Claudius* and *Nero* (insisted on by this Authour) had other foundation for their Empire besides the Souldiers promoting, and sufficient to give them a lawfull calling, and title to their rule, and to excuse them from Usurpation, such as hath been afore described. And that *Claudius* came in (though crosse to some unripened motions and consultations of theirs, yet) not against any Act or Decree of the Senate; but with their concurrent or subsequent approbation.

If it be objected in behalf of the Usurpers in our case, that they also have a consent of the people, by the Act of the presupposed House of Commons. I answer, besides what hath bee said in the close of the first Chapter, of the peoples noncommittance of any power to their Representees, to alter any thing in the constitution of the Supream Power, or to erect a new one; all that they have to do, being to manage that proportion which is committed to them: there are moreover two main things that impeach that Acts validity. 1. That the Lords who are an eminent integrall part of the Kingdom, as

also

alſo the far greater part of the elected Commons, are, not only abſent (ſo that a very ſmall part of the Kingdom, even locally conſidered, is repreſented by them that ſit) but not permitted to come in, and profeſſedly ſhut out (and conſequently the parts of the Kingdom which they repreſent are excluded) at the paſſing of this conſent. 2. That the object and actors in this conſent, the promoted and promoters are the ſame perſons; on whom is the new Supream Power conferred, but on themſelves that confer it? You cannot finde two parties in this Act, an agent and a patient; ſo that it is ſo far from being a legitimate contract or tranſaction, that it is no politicall Act at all. What reckoning ſhall we make of that conſent which men beſtow on themſelves, in relation to an intereſt of power over others? if ſuch a grant could create a right, few men that could get ſtrength would lack preferment.

Having thus anſwered this Authours main Argument, I ſhall in the reſt be briefer. 2. He alledgeth, *In this Nation many perſons have been ſetled in ſupream Authority by meer force, without title of Inheritance, not any three immediatly ſucceeding each other have come to the Crown by true lineall ſucceſſion. Five Kings on a row (the Conqueror being the firſt) had no title at all by proximity of blood*, Hen. *the 7th by meer power came in, was made King in and by an Army, upon this foundation of military power he got himſelf crowned at Weſtminſter, and called a Parliament, wherein the Crown was entailed upon him and his Heirs. Thoſe that came in thus, the main body of this Nation did obey, yea, doth yeeld ſubjection unto their Laws to this day.* Not to ſtand to examine what he aſſerts in theſe premiſes. 1. The miſtake of this Argument is, that becauſe the Kings by him mentioned came not in by true ſucceſſion, or proximity of bloud, they therefore muſt needs be granted to have come in by force alone, or otherwiſe unlawfully; whereas though ſome of them entred by the Sword, others by anticipation, yet they all, whoſe perſons were and Laws now are obeyed, had the concurrent or ſubſequent conſent of the Lords and Commons in Parliament, and that without their Houſes being diſmembred, and a force ſet at their doors. 2. The Laws made by thoſe Princes, were not made by them alone, but by them with the Parliament; and by them, not as ſo entring, but as received by Parliament,

and so legally invested. 3. The three last Princes of this Realm did come in by an indubitate lineall succession, and proximity of bloud, and the Son of the last is in being, and claiming by that title. It is observable then that this title should be denied and cut off when it was at the cleerest state. 4. No doubt there have been unjustifyable proceedings about the Crown by some of the former possessors of it: which have been followed with remarkable punishments, and publick calamities sufficiently pointing out their injustice, and fore-warning others from making them their examples to practise by. What hath been, is no warrant to conscience that the same may be done.

3. *He cites some Divines and Casuists as concurrent with him in his opinion.* Their words are too many for me to recite, and the nature of this kinde of Argument exacteth no long Answer. In a word therefore, 1. *Azorius* his words allow obedience to Tyrants in regard of title, with restriction, and in some cases (such as are granted by me, Chap. 3.) But your part is to prove obedience to them, in its full latitude, as you have propounded your thesis, without limitation, and concluded (though not validly) by your first Argument.

2. *Alsted* distinguisheth of *Tyrannus, titulo, & exercitio*, a Tyrant in regard of title, and in regard of use: and his words immediatly before these alledged by you, are spoken of the latter, and so may therefore these be understood; but the former only is the subject of our question. Besides, within a few lines before he hath this passage: *A Tyrant without title, who is an invader, every private man, may and ought to destroy, for he is not a Prince but a private person*[r]. Which will not stand with the words quoted by you, if understood of a Tyrant in regard of title.

3. *Paraus* in your place speaks nothing pro aut con. of obedience to Usurpers, but is explicating how the Apostle is to be taken in those words, *The powers that be, are ordained of God*: and he distinguishes thus in the words brought in by you. *The power which is of God is one thing, the getting and use of the power is another, which is indifferent, sometimes lawfull, sometimes unlawfull, or in dubio*[s]. Whether if you had followed him, you should have found him answering the doubt about Nimrods power, thus. *We must distern betwixt the power which is ever of God, and betwixt the getting and use of the power, which as to men is often most*

[r] Alsted. Theol. cas. cap. 17. reg. 6.

[s] Aliud est potestas quæ a Deo est, aliud acquisitio, & usus potestatis, quæ indifferens, alias legitima, alias illegitima, Par. in Rom. 13.

must needs not of God, but of mens lusts, and Satans malice [s]. By which words it is evident you have but half quoted him, as well as impertinently; and if his Authority may sway with you, unjustly gotten power is not of God, in regard of the person or man owning it, and consequently not to be obeyed by vertue of *Rom.* 13.

[s] Discernendum est inter potestatem quæ semper à Deo est, & inter acquisitionem, & usurpationem; quæ quoad homines sæpe est injustissima non a Deo sed ab hominum affectibus, & Satanæ malitia Ib. in Dub. 3.

4. For the rest, I have not their Books to peruse, but their sayings set down by you reach not the case at all. This therefore I offer you produce any one or more Authours, of any account amongst Protestants that allow obedience to an unlawfull Power, [in the full latitude of obedience to a Magistrate, where there is a pre-engagement of conscience pleaded by Law, ancient inheritance, and Oaths sworn to another Power in being, claiming, and endeavouring to recover his right] and I will (by Gods assistance) return you a particular Answer.

4. His next Reason it, *Either that authority which is thus taken by power, must be obeyed, or else all Authority and Government must fall to the ground, and so confusion be admitted*

First, why must this needs follow? 1. May not Usurpation fall to the ground, how strongly soever it be set up, and lawfull Government be raised up again? The experience of former times hath observed, *That no ill gotten power can be long lived* [u]. *Although* (saith *Cicero*) *Laws should be plunged over head, and Liberties over-awed by the power of a party, they will sometime recover again. There is no strength of any power so great, that it can continue by keeping men in awe*, &c.

[u] Nulla quæsita scelere potentia diuturna esse potest. Q. Curt. apud Lypt. Polit. lib. 2. c. 4. Quamvis enim demersæ sint leges alicujus opibus, quamvis tremefacta libertas, emergunt tamen hæc aliquando -- nec vero ulla vis imperii tanta est quæ premente metu possit esse diuturna. Testis est Phalaris, cujus est præter cæteros nobilitata crudelitas, -- in quem universa Agrigentinorum multitudo impetum fecit. Quid? Macedones nonne Demetrium reliquerunt, universique ad Pyrrhum contulerunt? Quid? Lacedemonios injuste imperantes nonne repente omnes fere socii deseruerunt, spectatoresque se otiosos præbuerunt? Justitiæ cohortantur Cicero de officiis, lib. 2. At impia fortasse insidiosa & violenta valere possunt inventa hominum, sed absque justitia, & æquitate prævalere non possunt diu: quippe vana & infirma sunt stratagemata civitatis, quæ columna virtutis non sustinetur. Bodet. Tractat. lib. 8. cap. 6.

2. If Usurpation have a party to joyn with it, that party will suffice to administer such justice as that Authority will afford; if it have no party, it fals to the ground (for it subsists only perforce) and a clear way is open for the right Govern-

ment to take place: which will be so much the more readily entertained, by how much it hath been interrupted *.

* Acriores autem morsus sunt intermissæ libertatis, quam retentæ. Cicero de offic. lib. 2.

2. However things succeed, evil of sinne must not be done, that good of profit may be attained. It must first be proved lawfull to obey, before this Reason can be heard, which will onely plead its expediencie, if it be honest. Though *commodum* may be consulted, especially *publicum*, yet we must first be satisfied of the *justum* of it. It was not long ago pleaded, *Fiat justitia, ruat cœlum.* And we were not told thus, when the late wars for Laws and Liberty were first begun: If this be a cogent reason now, it was to have been so then; and we might better have prevented the miseries of a war by hearkning to it, then by refusing it, have, by so dear a means, purchased to our selves an harder condition, and now be bound to bide under it for that very reason.

3. If Government fall, and Confusion come, let them bear the guilt that have wrought these effects: we that detrect from obedience shall onely bear the misery of it, which will be lighter to us, it may be hoped, then their greatnesse with the guilt it is gotten, and kept by, will be to them.

Fifthly, he addes, *Otherwise the King being for the Common-wealth, and not the Common-wealth for the King, the end should be destroyed for the means, the whole for a part.* First, the King as a man, yea as a royall person, or most noble part of the Common-wealth, is not the prime matter to be layed on the ballance; but if the King may be lookt at as ours, and so as we are in piety, and justice bound to him, to seek his preservation, and yeeld him our obedience; thus considering him, equity and a good conscience are the things stood for as the end; which although they may undergo the notion of means in reference to the Common-wealths good, yet they are desirable, and to be sought absolutely, and for themselves; and the subordinate means of the Common-wealths politicall good, must be subordinated or submitted to them, and that end is onely so far, and by such means to be pursued, as will consist with these. 2ly, The Parliament, and the Army also, are no more then a means, or a part in relation to the collective Common-wealth. Must not the rights of these therefore be stood for, with the hazard of the whole? If this rule might have

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guilded men in relation to their claims, such courses and events as have been, had been prevented. 3ly, Though certain destruction of the end, or whole, must not be run upon for the means, or part, yet those may be hazarded for the saving of these from certain destruction. As we see it ordinarily, men do adventure their lives and liberties for the preservation, or recovery of their estates by war; and their whole bodies for the regaining of their healths, or one wounded, or festered member, by Physick or Chyrurgery. 4ly, We are not active in the destroying of the end, or whole (if they be destroyed) and we were better both to suffer their destruction, and suffer in it, then sinfully to concurre in destroying the means, or a part, or in substituting an unlawfull means, or part for the legitimate, that we might preserve them.

Sixthly, *If a masters mate had thrown the master over-board, and by power would suffer no other to guide the ship but himself, if the mariners will not obey him, commanding aright for the guiding of the ship, the ship and themselves must needs perish.* Y. I conceive the mariners may in this case obey the Masters Mate for self preservation, till they come to shore; in like manner that we may obey an Usurpers power, that is, act according to his command in a thing which is not onely lawfull, but simply necessary both to be done, and to be done by us, as in the case of self-preservation, by repelling a forrain Enemy, or common danger of certain and important consequence; but shall it be inferred from hence, that the mariners are bound to obey the Mate, or we an Usurper, in all other things of his own concernment, or separable from self-preservation, and every other necessary duty? I am bound to submit my self to the wholesome, and necessary direction of my Pastor and Physitian, in their respective ordering, touching my soul and body: must I say therefore, I must resigne up my self in obedience to them in all other matters? 1ly, The case is not parallel. For, 1. The mariners (without respect to their exigence) in that posture are bound to obey none, the Master being dead, and so are conscience free. But the people (in the case) have a Magistrate surviving, and challenging power over them, to whom they have sworn Allegiance. 2. The Mariners are supposed without obedience to the Mate, to be sure of destruction: but by

what hath been abovesaid, it cannot be pleaded that the Nation, or the scruplers at obedience without obeying are sure to perish.

x Summula. Tit. Rempub. Tyrannice, &c.

Seventhly, You quote a saying out of *Cajetan* x, but it suits not with the obedience you stand for; he in all that Discourse speaks nothing at all for any obedience to Tyrants in respect of title, his subject being the point of going to such Tyrants for Law and Justice y, (of which I have spoken, Chap. 3.) and his whole speech being confined to it.

y Nunquid gubernante Tyranno peccent illi qui recurrunt ad ipsum pro justitia.

Eighthly and lastly, (for I will not follow you in repeating again what you had said before, and I have answered above) *What can the common people do in this case? they cannot judge of titles; but they see who doth visibly and actually exercise Authority.* 1. Brute beasts do indeed only see him that actually leades or drives them; and therefore they follow without making difference betwixt the owner and a thief; but are men, though but common people, so stupid? The people you speak of are not altogether so brutish, they themselves disprove you, if you observe (as it is easie to discern) whom they generally abhorre from, and whom they look towards; and whoso shall compare their visible bent with your present book, they whom you make but like *Balaams* dumb Asse, yet in this case do speak with mans voice, and forbid the madnesse, &c. 2. If they be so incapable of discerning of titles, wherefore hath not only the late King, but the Parliament published so many Declarations and Appeals to the people, wherein they plead for the justnesse of their title, to what they stood and fought for? yea, why hath the Parliament drawn the people into the Protestation, the 2. Vow and Oath, and the Solemn League and Covenant, all which concern the severall claims and rights of King and Parliament? either they are thereby supposed to be somewhat competent to judge of those titles; or it was both vainly and irreligiously done to leade them into such sacred bonds, which we may neither take, nor cause others to take, but in judgement. *Jer.* 4. 2.

3. Although they, yea the prime Statesmen, may finde it difficult enough to judge of titles in some nice and intricate cases that may happen, yet the present case is not so deep or doubtfull, the right of title in this question is written with

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clear and capitall letters, in Lawes, Oaths, and actions open before all. Yea, this Authour in the title and current of his book, (as doth M. *Aſcam* in his) plainly enough grants where the right of title is.

This Author in the latter end of a second Edition of his book, *viz.* beginning at pag. 15. addeth some things *upon the queſtion of active obedience, and acting under this preſent power, and government.* Although this Edition come in late, and in some paſſages is but an amplification in terms, not in matter, of what he had ſaid before; yet I ſhall take a brief notice (whether ſufficient let the Reader judge) of the things in it, that may ſeem materiall.

First, he premiſeth. *That the preſent Power is in poſſeſſion of the whole Land, and no viſible force to oppoſe; and ſo it is not like that between* David *and* Abſolom, *when* David *had an Army in view.* Conſult the text, and you ſhall finde the caſe exactly parallel. 1. *The preſent Power is in poſſeſſion of the whole Land*; you ſay, you mean of this ſide the Sea, not of *Ireland* alſo; ſutable hereunto *Abſolom* was poſſeſt of all the Land unto *Jordan*, yea, and he went over *Jordan*, and pitched in *Gilead*, and all the people throughout all the Tribes of Iſrael had anointed him King over them: on the other hand *David* and his men *fled out of Jeruſalem, and out of the Land, beyond Jordan, and ſtayed not till he came to Mahanaim by the ford Jabock.* 2 *Sam.* 15. 14. &c. 17. 22, 24, 25, 26. & 19. 9, 10.

2. You adde, *And no viſible Force to oppoſe, whereas* David *had an Army in view.* *David* had no Army in view within that land before ſpoken of: all that he had was at *Mahanaim*. And though there be no viſible Force to oppoſe in *England*, yet there is ſaid to be a conſiderable Force in *Ireland*, and it may appear by the Preparations ſent thither. Beſides, there is one thing indeed wherein *Davids* condition, and his whom the preſent Power excludeth, differ, but not to the advantage of this Authours Reaſon, which is, that *David* had no other Kingdom to own and declare for him, which yet he hath.

Secondly, You come with Arguments. 1. *Obedience to ſuch a Power in good things is lawfull. But acting for Juſtice and order is a good thing: Ergo*: I have before diſtinguiſht betwixt moral acts which are for private men to do, though there were no Authority;

rity; and politicall acts, which flow from magistracy. The latter sort of acts may not be done in obedience to an usurped Power, for the Reasons given before. The execution of justice is a good act in it self, but it is not good to be done by every man, nor upon every mans command; but is only good in him that is lawfully authorized to it.

2. You say, what reason is it, that those that will not act because they hold it unlawfull, should expect that others should do an unlawfull act to benefit them? To this let *Cajetan* (an Authour cited by you, and that in the place you cited from him) answer; *They are excused from the sin of inducing the Tyrant to an act unlawfull for him, that ask Justice of him, because they doe not petition him for the unlawfull act, but for the justice of that unlawfull act: it is honestly done to perswade him to use his power lesse sinfully: This Petition is in effect thus much. Seeing thou wilt hold and exercise this power, use it justly, use it honestly, use it religiously; use it to the benefit of the publike, and of private men, as it would become the Power. It is plain such Petitioners intend not to ask the Tyrant to usurp the act of judicature, because they had rather he would give it over: but seeing he doth usurp dominion and judgement, they intend he should use justly and honestly his usurped Power and Judgement: and that which they intend, that they petition for: so that they neither intend nor petition for an usurped Act, but an holy quality in the exercising of that usurped Act* *.

Again, *Why should others give right to them, that will not give right to others?* A fallacious and frivolous interrogation in the true meaning of it. In commutative justice (wherein the rule of doing as we would be done unto only holds, with reference to persons that are to do it) they who refuse magistraticall acts, are ready to render every man right to him. But this question would have a private man (such as they are) to have no distributive justice or right by the Magistrate done him, even when the Magistrate is lawfull, because he cannot,

* Excusantur à peccato inducendi Tyrannum ad actum, & opus sibi illicitum, petentes ab illo justitiam: quia non petunt actum illicitum, sed justitiam illius actus illiciti. Sanctè suadetur, quod minus male utatur dominio illo; sci. si vis seu ex quovis detinere, & exercere hoc dominiũ, utere illo justè, utere honestè, utere piè, utere ad utilitatem publicam, & privatorum prout deceret dominium Constat nàque quod non intendunt ipsi petere, ut tyrannus utatur tyrannide, ut usurpet actum Judicii: quoniam mallent ut cederet tyrannidi, & judicio; sed ex quo usurpat sibi dominium ac judicium, intendunt ut justè, ut piè utatur usurpato dominio, & usurpato judicio, & quod intendunt hoc petunt, ita quod nec intendunt, nec petunt actum usurpatum, sed qualitatem sanctam in actu usurpato exercendo. Cajetan. Summul. Tit. Remp. Tyrannice, &c.

and

and therefore will not *viciſſim* adminiſter diſtributive juſtice to the Magiſtrate. Every common Judgment knows that a private ſubject is to receive judiciall right, but not to give it.

3ly, *It is cleared before in this Diſcourſe, that thoſe who have gotten to be Powers (though by force) ought to give juſtice to thoſe whoſe government they have undertaken, but (ſuppoſing them to be but one, or a few) this they cannot do without ſubordinate agents; to diſallow acting under them then, is to ſay in effect they ſhall not give juſtice.* 1. Suppoſe them but one or a few, and they cannot get or keep the place by force. Suppoſe them many, & they have no need (in that reſpect) of others to be their under-agents. 2ly, If this that you ſay be cleared, or ſo much as ſaid before, I have forgotten it, though I have read all that is before, and reſt confident there is no ſuch thing. When you ſhew where this is ſaid and cleared, I ſhall then find by what reaſons it is maintained, and ſo give you an Anſwer thereunto. In the mean time, that which is here but barely affirmed, it is ſufficient for me to deny. If you could clear this, the whole queſtion were decided. If he ought to give juſtice, he hath a ſpeciall warrant, and calling to it; and how Force can give ſuch a calling, you have not yet aſſayed to clear: the contrary I have brought many reaſons for (Chap: 2.) and am therefore before hand with you in this point. It will be confeſt, that if a man will take upon him to adminiſter judgment he were better, or it is a leſſe evill in him, to do right, then wrong therein: but of two evils of ſin, neither is to be admitted.

4ly, *This Doctrine of not acting is the very doctrine of Levelling. For when no man may act, every man may take freely from his neighbour, &c.* 1. Levelling may be the conſequent of non-acting, but it cannot be the conſequent of it; it is the conſequence of their doings, who take away the ſetled Magiſtracy. 2. Levelling in point of goods, you like not it ſeems: but why do you not as well abhor from it in point of Government? that's but levelling the private, this is levelling the publick Intereſt; that Levelling can never come in, till this Levelling go before, and lead the way, but who are Levellers this latter, and (as you ſee) worſe way, but they that teach, or practiſe the deſerting of the lawfull, eſtabliſht Magiſtrate, and the competency, yea duty, of any that have force to play the Magiſtrate. *Hence ariſeth that which they cal an interpretative conſent of the people: becauſe it is ſuppoſed every rationall man doth conſent that there ſhould be order, property, and right, given under a tyrant, ra-*

ther then all to be under confusion, &c. 1. Every rationall man consents indeed that there should be order, property and right; and his being under a tyrant (by experience of the want) confirms his assent to the necessity thereof: but that such things should be maintained magistratically by a tyrant (in regard of title) you see (if all that are your Antagonists in this question be not stark Irrationals) some rationall men deny. And in this they appear rationall, in that they would hear some reason for it, before they consent to it. Which rather then you will strain your self to give (for truly it is hard to do) you choose to suppose them that will not consent without it, to be out of the number of rationall men. 2ly, This shift of an interpretative consent of the people, that the Usurper shall administer judgement, will not serve you. For, 1. It will be difficult to finde out, and agree, when such an interpretative consent is given by the people. 2ly, What thing is it as neer as I can conjecture it is possibly. 1. Either that these men shall be the Power, or Magistrate; and then, 1. Either the people had power to give this consent, and this makes these men no Usurpers, but lawfull Magistrates, and so puts them out of the compasse of this question. 2. Or they had no power, being preingaged, and then this consent is void, and null, because it prejudicates anothers right. 2. Or it is, that these men, though they have no consent of theirs to be Magistrates, but come in, and hold against their wils, and by their own meer force, and against anothers right, yet they shall for present execute judgment, because it cannot be had otherwayes. This consent (suppose it really past by the people) cannot bottome their acting, or others under them. For it is in the essence of it an unlawfull act, and therfore of no force. It is of the same validity as was that of the people which joyned with *Korah*, and his company, who gave consent, that though *Korah*, and the rest were no Priests, yet they should offer incense; or as that would be, if the people of a Congregation now, that can procure no lawfull Minister, should take a private man, and say, this man is no Minister, yet he shal, in this defect of one, preach, and administer the Sacraments to us. Such consents are contradictions to the establisht ordinance of God, appointing that no stranger to those functions shall execute those acts. In like sort it is in this point of Magistracy.

5ly, *How could* Ezra, *and* Nehemiah *justifie their acting under the Persian Monarch, who had no right to the Crown of Judah, either by blood*

or just conquest. 1. That the Persian Monarch had not that right, you say, but prove it not; but if just conquest give a title, *Cyrus* the first Persian King justly warred against *Balshazer* the last *Chaldean* Monarch as Historians a say, and therefore justly conquered him, and his Empire; under which the Jews were then subjected, and that by speciall warrant from God. *Jer.* 27. 12. to 16. 29. 1. to 8. 21. 8, 9 38. 17. to 21. 2ly, But *Cyrus* had both an indubitable title to that Empire, and an unquestionable Commission for what he did in reference to the Jews releasement from captivity, and restauration of their Temple, Religion, and Civill State; and that from God himself, by immediate designation. Hear what he himself saith in his Proclamation, unto which he was stirred up in spirit by the Lord. *Thus saith Cyrus King of Persia, all the kingdoms of the earth, hath the Lord God of heaven given me, and he hath charged me to build him an house in Jerusalem which is in Judah.* 2 *Chron.* 36. 22, 23. *Ezra* 1. 1, 2. And compare this with what the Lord saith not onely of, but to this *Cyrus*. *Isa.* 44. 28. 45. 1, 2, 3, 4, 5, 13. and a clear calling or title to the Empire of the world, and to the acting of what he did in reference to Judea, will appear to be in him. It is conceived that *Cyrus* had certain knowledge of this Commission, recorded and given to him by name, in that Prophesie of *Isaiah*, and that by means of *Daniel* the Prophet b; and that which is therin written he understood to be his charge given of God, which he mentioneth in the aforesaid Proclamation c. Adde to this that Mr. *Diodati* interpreteth that speech of God to *Cyrus*, *viz: I girded thee:* Isa. 45. 5. *of the Lords making him King, and giving him power and authority:* v. 1. *And that of* ver. 13. *I have raised him up in righteousnesse*, he understands thus. *That is, by a firm decree of my justice, and by a just calling.* Now if *Cyrus* the first of the Persians had a valid title, what can controul his Successors right in Judea?

2ly, If there had been no right in the Persian King over Judea, yet the acting of *Ezra* and *Nehemiah*, could be no president or warrant for a now acting under a usurped Power in the case we have in hand. 1. Consider the speciall qualification, and call of

a *Cræsus fiducia potentiæ infert bellum adversus Tyrannum Babylonicum.* Chron. Carion. li. 2. pag. 69. *Balshasar conspicatus Cyri, & Medorum potentiam coalescere, Cræsum ad infringendas eorum vires incitat.* Cluverii Hist. li. 6. pa. 64.

b *Agnovit hoc ipse Cyrus, & publico est edicto ad hunc modum testatus: Hæc dicit Rex Persarum, &c. primo Esdra.* Muscul. in Isa. 45. 1. *Cyrus lecto vaticinio Isaiæ de se nominatim edito, Isa.* 45. *Proposuit edictum quo Judæis in Babylonia captivis, reditum in patriam, & facultatem, instaurandi templi concessit.* Chytræi Chronol. in 1. l. Herodat. p. 147 *Arbitror autem & tunc cum rexit Persiam Daniel, præsos in Susis fuisse ejus auditorum Cyrum adolescentem, & ab eo dediciſſe veram de Deo, & de Messia doctrinam, & prædictiones Isaiæ in qua nomen Cyri expresse positum est.* Chron. Carion li. 2. p. 69.

c See Annotations of Divines on 2 Chron. 36. 22. & Ezra 1. 2. Diodat. ibid. Musculus in Isa. 45. 1. 13.

Ezra 7.1,2.

these two persons. 1. For *Ezra*, he was a Scribe, and a Priest, and some think one of the highest, to wit, that he was that *Josedech*, who was the father of *Joshua*, the high Priest (this is *Jerom's* opinion [d]; and so might be authorized by vertue of that office, to transact all that he is said to have done in his book. 2. He is said by some of the Ancients to be a Prophet, *Neither can he be denyed so to be*, (saith a late learned and solid Divine [e]) *in that he was a Pen-man of Scripture*. 3ly, And besides these functions, he seems to have had a speciall call of God in his undertaking what he did: it is said, *The hand of the Lord his God was upon him*, when he first enterprized his work: *Ezra* 7.6. which phrase is often reiterated upon the severall passages of his imployment. Chap. 7.9.28.&c.

[d] Ludov: vives, in August. de civet Dei, lib. 18. cap 36.

[e] Mr. *Roberts* his *Clavis Bibliorum*, on Ezra.

2ly, *Nehemiah* was the Governor, *Neh.* 8.9.10.1.12.26. it is not any where said (that I finde) that he was sent with that power by the Persian King, but it is more probable he was chosen to that office by the people of Judah, both because he was one that was very zealous for the interest and publick advantage of that Nation, and by reason he came thither some yeers* after *Ezra*, and acted in conjunction with him. *Neh.* 8.9. Now in *Artaxerxes* letter to *Ezra*, at his first going up from Babylon to Jerusalem, it is committed to *Ezra's* trust, *To set Magistrates and Judges up among the people*: *Ezra* 7.25. with this proviso, *After the wisdom of thy God that is in thine hand*; by which is meant the Law of God. But by the Law of God the people of Israel were to create their own Magistrates and Kings, *Deut.* 16.18. 17 14,15. And besides this Governorship it seems he had (in like manner to *Ezra*) a divine instigation and vocation to his work. It is said, *That God put that in his heart to do at Jerusalem*; which he went about, and when he was come thither, *he told them of the hand of his God which was good upon him*: upon which report, *they said, Let us rise up and build.*

* Ezra 7.7. compared with Nehe. 1.1.

Neh. 2.12.18.

2 Let it be more narrowly observed, what *Ezra's* Commission was from *Artaxerxes*, and it will be found, 1. That he himself was not authorized to fine, imprison, and put to death, as this Author affirmeth; let the text be better marked, Chap. 7 26 2. In the charge of setting up Magistrates and Judges, it cannot be thought he was intended to do it; otherwise then as a private man, or Priest might be instructed to do it, *viz:* with the peoples concurrence; For he (as I even now observed) was to manage that business *after the wisdom of his God that was in his hand*, to wit, according

according to divine Law, which appointeth the people to do it.

3ly, That in all this Commission he and the rest that went up with him were authorized to do no more, and in no other manner then the Law of God required: *Ezra* 7.14.18.23.25. and consequently they were warranted before by it, to do all that they did, and this of *Artaxerxes* was but an encouragement, & strengthening of them to it. 4ly, Whatsoever he acted, Chap. 10. in the matter of the Oath, Proclamation and reformation in the point of marriage. Besides that there was nothing done by him in it, that was solely appertaining to the Magistrates office; all that he transacted was by the motion, appointment, and consent of the Congregation, the Princes and the Elders: *Ezra* 10. 1. 3. 7,8. &c. *ver:* 12. 19 yea even by the free assent of the parties. 3ly, As for all the authoritative actings of *Nehemiah*, which he alledgeth they must be attributed to his place of Governor, and whence that is to be derived, I have spoken before.

Lastly, You bring in the Judgment of two or three Popish Divines. Which I shall altogether passe over, for that their reasons taken from *the tacite, or interpretative consent of the people, the confusion that comes in by having no government, and the expedience of chooſing the lesser of two evils*; I have answered before. Only one thing brought in, by the last of them being not before answered, I shall here reply to; which is as followeth.

It is manifest that the Romanes by tyranny did possesse Judea, in that very time wherein Christ and John Baptist did preach: yet Christ, Mat. 22 *did teach that tribute was to be given to Cæsar: yea himself did give it. John Bapt:* Luk 3. *commanded the souldiers this onely, that they should do violence to no man, and be content with their wages: wherein he did rather perswade them to continue in the service of Cæsar.*

1. To that of Christ, *Matt.* 22. wherein the main of this allegation lyeth, which is stuck at by many, I have two things to say.

First, His Answer to the Question about the lawfulnesse of giving tribute to *Cæsar* is to be weighed, and therein it may be questioned, whether he positively taught that tribute was to be rendred to *Cæsar*. His words are, *Render therefore unto Cæsar the things which are Cæsars: and unto God the things that are Gods.* Here Christ delivers a precept of giving to God and *Cæsar* each their right in the generall, without asserting, or explaining what the right of either is in particular, or making application to the case, then before him; he seems to leave them that moved the question

question to do that. His words determine not the point either way expresly; all that can be inferred from the plain current of them, is a conditionall rule equally favouring the affirmative, and negative; if it be *Cæsars* due, render it; if not, &c. Such a waving answer will not appear unbeseeming him, if it be considered who they were that propounded the *quere*, to wit, the Pharisees, with the chief Priests and Scribes; and with what intention it was put forth by them, *viz:* to entangle him, and so to betray him to the Governor for his destruction: See *v:* 15. and *Luk.* 20. 19,20. and how well this was known to him: *v:* 18. The case was put not so much of conscience, as of designe; and there was this biformed, or cornuted trap in it. *If he should disallow that tribute paying, they would accuse and prosecute against him, before the Romane Governor as an enemy to Cæsar; if he should hold with it, they would traduce him to the people, as one that consented to the Romanes tyranny, and sacriledge* a: Upon this ground he might prudently (and justly enough) give an Answer not to satisfie the doubt, but to silence the propounders. And unto this interpretation Mr. *Calvin* inclineth *. *He so tempered* (saith he) *his answer by his admirable wisdome, that he might render himself obnoxious to neither party.* If he did indeed so expresly command tribute paying to *Cæsar* in these words, which were publickly, and before all uttered in the Temple; with what face or colour could they, within two or three dayes after, accuse him unto *Pilate*; as one whom they found perverting the Nation, and forbidding to give tribute to *Cæsar. Luk.* 23.2. This accusation would import to us, his Answer under question to have been so positive, and punctuall, for tribute-paying; for though no doubt these men accused him maliciously, and would not stick to do it falsly, yet they would have some hint, or appearance of occasion for it, as in other their accusations they by straining and misconstruction had.

a Marlorat. Muscul. Dieterius Iansenius, De odate.

* *Ita temperavit responsum admirabili sua sapientia, ut neutri parti se redderet obnoxium.* Calv. apud Marlorat. in locum.

2ly, But unto those who will not beleeve, but that in the said words he teacheth paying tribute to *Cæsar:* I further answer. Let the notion under which he is supposed to enjoyn it be observed, and the so understanding him will help not to strengthen, but to answer the Argument. He commands them to render that which he speaks of to *Cæsar* as a due or right: b Render unto *Cæsar* the things which are *Cæsars*; now if tribute or any thing else belonging to a Magistrate were *Cæsars* due and right, then was *Cæsar* no Usurper, but a lawfull Magistrate, for tribute of due can onely belong

b Render as a debt. Rom 13. 7. Annot. of Divines.

belong to a rightfull Soveraigne. A debt on the Subjects part of tribute must needs infer a right to it in the Magistrate, to whom it is payable; and a right in him to it must needs infer a right in him to all allegiance c. How it came about that the Romanes were invested with the Soveraignty of Judea, is not necessary for me to clear, when there is (taking the words in this latter sense) so plain a proof that it was so in these words of our Saviour.

But for the Readers sake, I will observe thus much out of History to him. About 152 yeers before the birth of our Saviour, the government of Judea came to be in the Maccabees who were Priests. At that time *Judas Maccabeus* being in fear of that grand Enemy of the Jews, *Antiochus* sought aid of, and entred into a League of friendship with the Romanes; d which continued till about 60 yeers before the birth of Christ, when *Hircanus* and *Aristobulus*, the Sons of *Alexander* falling into contention for the Kingdom; and *Aristobulus* the more warlike man having possest himself of it, and usurped it from *Hircanus* the elder brother, in whom the right then was, the said *Hircanus* fled to the Romanes for remedy, and by the mediation of *Antipater*, he procured *Pompey* (then nigh that Countrey with an Army) to undertake his aid; who thereupon besieged Jerusalem: *Hircanus* his party within the City immediately delivered it up to him, and *Aristobulus* friends withdrew into that part where the Temple stood, which was by *Pompey* taken by storme; and by this means that City came into the hands of the Romanes, and *Hircanus* was restored to the high priesthood and kingdome of Judea. Who, with the party that cleaved to him against *Aristobulus*, having gained the upper hand of those that usurped over them, they were fain by the same means to keep it, by which they got it, to wit, by the Romane power and protection e. Whence it may appear, that the Jews under *Hircanus*, were not brought under the Romane subjection by meer force, but (through the necessity of their affairs, whereinto they were driven by the factions within themselves) from their own consent and choice. And to this dedition of the Jews to the Romanes, agreeth that saying of *Josephus* concerning *Pompey*, when he had taken Jerusalem f: *He did as becometh a good Generall, rather by good turns, then by terror conciliate the people to himself.* And another passage in the same Author plainly proves it. He telleth that *Antipater* replying to the accusations of *Antigonus* the

c *Non dicit dare ergo, cum illi interrogassent, licereturne dare se dicit reddere tanquam ea quæ ejus sunt, quæque ab eo accepistis. Reddite, inquit, Cæsari, sed quæ Cæsaris sunt, quæ & tu quam jure postulare potest.* Jansen. com in conc. c. 116.

d Ioseph. de bello Iudaic. l. 1. c. 12. Chron. Carion l. 2. pa. 138.

e Iose. de bello Iudaic. l. 1. c. 4. 5. 6 Antiq. Iudaic. l. 14. ca. 1. 2 &c. Chron. Carion li. 2 pa 148. Stella in loc. 20. 22.

f *Perquæ sicut bonum imperatorem decuit bene volentia potius quam timore plebem conciliavit.* De bello Iudaic. li. 1. ca. 5.

the Son of the aforesaid *Aristobulus*, layed in by him against *Hircanus*, and himself before *Cæsar*, complaineth of *Antigonus*, *That he sought not relief of Cæsar, because he was poore, but that he might kindle Jewish seditions against those who had made a dedition of themselves.* And thus continued this relation, and subordination of the Jews unto the Romanes, to our Saviours time, and that still with a faction, part of them adhering to the Cæsarian Authority, and part reluctating; which division among themselves occasioned the question to be really controverted amongst them, which is here insidiously propounded to Christ about the lawfulnesse of giving tribute to *Cæsar*; the partie that was for the negative were the Pharisees faction, whose reputing and speaking of the Romanes as Usurpers, might occasion that vulgar opinion of their power which we meet with in some Authors, *viz:* that they were indeed in our Saviours time Tyrants without title over Judea; Although it is evident (by what is here said) that they came into their Authority by the consent of the juster, and better authorized party, and at this time had one part agreeing to them.

Non propter inopiam desiderare facultates sed ut in eos qui dedissent Judæorum seditiones accederet. De bello Iudaic. & l. 1. c. 8.

Nam divisi erant Judæi inter se, ita ut pars dandum censeret tributum Cæsari, pars negaret qui negabant faciebant cum Pharisæis, qui sentiebant populum Dei debere liberum esse, nec tributa, endere impiæ potestati Cæsaris; qui dandum sentiebant faciebant cum Herode, qui Cæsaris partes tuebatur atq; ideo Herodiani dicebantur. Muscul. in loc. Vid. etiam Iansen. in comment. in concord. ca. 116.

2ly, That which is further alledged, *viz: That our Saviour himself payed Cæsar tribute, and that John Baptist perswaded the souldiers to continue in his service*, is taken off sufficiently by what is already said; for if *Cæsar* was a lawfull Prince to the Jews, these things make nothing for the Arguer.

I have thus gone through, and endeavoured to give a satisfactory Answer to every Argument, which by this Author, or any other I have observed to be urged for the obedience which in this Treatise I impugne. If I had been apprehensive of, or could have extracted any materiall argumentative grounds out of Mr. *Ashcams* Discourse, for his high assertions mentioned in my 2d. Chapter, I had here taken notice of them. If he hath any brief and slender hints of Reasons, I suppose them to be Answered in what I have already said.

FINIS.